Title 3 WAC

ACADEMIC ACHIEVEMENT AND ACCOUNTABILITY COMMISSION

Chapters

3-20 Performance improvement goals.

Chapter 3-20 WAC
PERFORMANCE IMPROVEMENT GOALS

WAC

3-20-100 Repealed.
3-20-200 Reading and mathematics.
3-20-300 High school graduation.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

3-20-100 Reading and mathematics. [Statutory Authority: RCW 28A.655.030 (1)(a). 01-11-035, § 3-20-100, filed 5/8/01, effective 9/1/01.] Repealed by 03-09-144, filed 4/23/03, effective 5/24/03. Statutory Authority: RCW 28A.655.030 (1)(a).

WAC 3-20-100 Repealed. See Disposition Table at beginning of this chapter.

WAC 3-20-200 Reading and mathematics. (1) Each school district board of directors shall by December 15, 2003:

(a) Adopt district-wide performance improvement goals using the federal requirements to determine the increase in the percentage of students who meet or exceed the standard on the Washington assessment of student learning for reading and mathematics in grades four, seven, and ten; and

(b) Direct each school in the district that administers the Washington assessment of student learning for grade four, seven, or ten to adopt performance improvement goals using the federal requirements to determine the increase in the percentage of students meeting the standard for its fourth, seventh, or tenth grade students in reading and mathematics.

(2) School districts and schools shall establish separate district-wide and school reading and mathematics improvement goals using the federal requirements to determine the increase in requirements under subsection (1) of this section for each of the following groups of students:

(a) All students;

(b) Students of each major racial and ethnic group;

(c) Economically disadvantaged students;

(d) Students with disabilities; and

(e) Students with limited English proficiency.

(3) School districts and schools are not required to publish numerical improvement goals in a grade level for reading and mathematics for 2004 or in any year thereafter for any student group identified in subsection (2) of this section in which there were fewer than ten students eligible to be assessed on the Washington assessment of student learning in the prior year. However, this subsection shall not be construed to affect WAC 180-16-220 (2)(b) or any other requirements for school and school district improvement plans.

(4) Annual performance improvement goals for both school districts and schools shall be determined:

(a) By using the starting point and annual goals established using the federal requirements for determining starting points in the 2003 Washington State No Child Left Behind (NCLB) Accountability Plan.

(b) If the performance improvement goals established by using the federal requirements to determine the increase for assessments administered in the spring of 2003 and each year thereafter through and including assessments administered in the spring of 2013 are not met, but the other indicator is met [the other indicator for high schools is the graduation goal (WAC 3-20-300) and the other indicator for elementary and middle schools is the unexcused absences goal (Washington State Accountability System under NCLB 2001)] then a substitute calculation may be made. That substitute calculation representing satisfactory progress shall not be less than the sum of:

(i) The percentage of students meeting standard on the assessments administered in the spring of the preceding year for the relevant student group, grade level and subject; and

(ii) The percentage of students who did not meet standard on the assessments administered in the spring of the preceding year for the relevant student group, grade level and subject, multiplied by ten percent.

(c) The performance improvement goals for assessments administered in the spring of 2014 shall be that all students eligible to be assessed meet standard on the Washington assessment of student learning.

(5) School districts and schools shall be deemed to have met the performance improvement goals established pursuant to this chapter if the school district or school achieves the minimum improvement goal required under subsection (4) of this section, even if the school district or school does not achieve the performance improvement goals established by using the federal requirements to determine the increase.

(6) No performance improvement goal for a group in a subject and grade established pursuant to this section shall be used for state or federal accountability purposes if fewer than thirty students in the group for a subject and grade are eligible to be assessed on the Washington assessment of student learning.

[Statutory Authority: RCW 28A.655.030 (1)(a). 03-09-144, § 3-20-200, filed 4/23/03, effective 5/24/03.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 3-20-300 High school graduation. (1) Each school district board of directors shall by December 15, 2003:

(a) Establish district-wide goals to increase the percentage of students who graduate in each 9th grade cohort group from high school with a regular diploma beginning with the graduating class of 2004 cohort; and

(b) Direct each high school in the district to establish goals to increase the percentage of students who graduate in each cohort group from high school with the 9th grade cohort with a regular diploma beginning with the graduating class of 2004 cohort, subject to approval by the board.

(2) High school cohort graduation rate goals for both school districts and schools shall be determined as follows:

(a) The school district and high school cohort graduation rate goals for the class of 2004 cohort shall not be less than the lesser of:

(i) The statewide percentage of public school students in the class of 2002 cohort who graduate with the 9th grade cohort with a regular diploma; or

(ii) The percentage of students in each cohort who graduated with the 9th grade cohort with a regular diploma from the relevant school district or high school in 2003 plus one percentage point.

(b) The school district and high school cohort graduation rate goals for the class of 2005 cohort through and including the graduation rate goals for the class of 2013 cohort shall not be less than the lesser of:

(i) The statewide percentage of public school students in the class of 2002 cohort who graduate with the 9th grade cohort with a regular diploma; or

(ii) The prior year target level percentage of students graduating from the relevant school district or high school with the 9th grade cohort with a regular diploma plus one percentage point.

(c) The school district and high school cohort graduation rate goals for the class of 2014 cohort shall be that the percentage of students who graduate in that cohort group with the 9th grade cohort with a regular diploma meet or exceed eighty-five percent for each group of students listed in WAC 3-20-200(2).

(3) School districts and high schools in which fewer than ten students are enrolled with the graduating class of 2003 cohort or would be enrolled with the class of 2003 cohort but have dropped out of high school are not required to publish numerical graduation rate improvement goals. In 2004 or any subsequent year school districts and high schools in which the number of students enrolled with their graduating class cohort combined with the number of students who would be enrolled with their graduating class cohort but have dropped out of high school is fewer than ten are not required to publish performance relative to the cohort graduation rate goals.

(4) Performance improvement goals established pursuant to this section shall not be used for state or federal accountability purposes in any school district or high school in which the number of students who are enrolled in a graduating class, including any who have dropped out of that graduating class, is less than thirty.

(5) The commission will review these goals in 2004 after more data are available on cohort graduation rates for the class of 2003.

[Statutory Authority: RCW 28A.655.030 (1)(a). 03-09-144, § 3-20-300, filed 4/23/03, effective 5/24/03.]

Title 4 WAC
ACCOUNTANCY, BOARD OF

Chapters

4-25 General provisions.

Chapter 4-25 WAC
GENERAL PROVISIONS

WAC

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WAC 4-25-410 Definitions. For purposes of these rules the following terms have the meanings indicated unless a different meaning is otherwise clearly provided in these rules:

(1) **"Act"** means the Public Accountancy Act codified as chapter 18.04 RCW.

(2) **"Active individual participant"** means a natural person whose primary occupation is at the firm or affiliated entity's business. An individual whose primary source of income from the business entity is provided as a result of passive investment is not an active individual participant.

(3) **"Affiliated entity"** means any entity, entities or persons that directly or indirectly through one or more relationships influences or controls, is influenced or controlled by, or is under common influence or control with other entities or persons. This definition includes, but is not limited to, parents, subsidiaries, investors or investees, coinvestors, dual employment or management in joint ventures or brother-sister entities.

(4) **"Attest services"** are services performed by a licensee in accordance with:

(a) Statements on Auditing Standards and related Auditing Interpretations issued by the American Institute of Certified Public Accountants (AICPA);

(b) Statements on Standards for Accounting and Review Services and related Accounting and Review Services Interpretations issued by the AICPA; and

(c) Statements on Standards for Attestation Engagements and related Attestation Engagements Interpretations issued by the AICPA.

(5) **"Audit," "review,"** and **"compilation"** are terms reserved for use by licensees and individuals granted practice privileges under the act.

(6) **"Board"** means the board of accountancy created by RCW 18.04.035.

(7) **"Certificate"** means a certificate as a CPA issued in the state of Washington prior to July 1, 2001, as authorized by the act, unless otherwise defined in rule.

(8) **"Certificateholder"** means the holder of a certificate as a certified public accountant who has not become a licensee, has maintained CPE requirements, and who does not practice public accounting.

(9) **"Client"** means the person or entity that retains a CPA firm, a CPA, the CPA's firm, or a firm owner, an affiliated entity, or the owner of an affiliated entity through other than an employer/employee relationship.

(10) **"Commissions and referral fees"** are compensation arrangements where:

(a) The primary contractual relationship for the product or service is not between the client and the CPA firm, the CPA, the CPA's firm, or a firm owner;

(b) The CPA firm, the CPA, the CPA's firm, or a firm owner is not primarily responsible to the client for the performance or reliability of the product or service;

(c) The CPA firm, the CPA, the CPA's firm, or a firm owner adds no significant value to the product or service; or

(d) A third party instead of the client pays the CPA firm, the CPA, the CPA's firm, or a firm owner for the products or services.

(11) **"Contingent fees"** are fees established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service.

(12) **"CPA"** or **"certified public accountant"** means a person holding a CPA certificate or a CPA license recognized in the state of Washington, including a person granted practice privileges pursuant to RCW 18.04.350(2).

(13) **"CPE"** means continuing professional education (see also "Interactive self-study program").

(14) **"Entering the state"** means an individual is practicing public accounting in the state of Washington and that individual spends more than ten percent of his or her total work hours on activities conducted within the state of Washington, maintains an office or workstation in the state of Washington or advertises to provide his or her services within the state of Washington.

(15) **"Enterprise"** means any person or entity, whether organized for profit or not, with respect to which a CPA firm, a CPA, a CPA's firm, or a firm owner performs professional services.

(16) **"Firm"** means a sole proprietorship, a corporation, or a partnership. "Firm" also means a limited liability company formed under chapter 25.15 RCW.

(17) **"Generally accepted accounting principles"** (GAAP) is an accounting term that encompasses the conventions, rules, and procedures necessary to define accepted accounting practice at a particular time. It includes not only broad guidelines of general application, but also detailed practices and procedures. Those conventions, rules, and procedures provide a standard by which to measure financial presentations.

(18) **"Generally accepted auditing standards"** (GAAS) are guidelines and procedures, promulgated by the AICPA, for conducting individual audits of historical financial statements.

(19) **"Holding out"** means any representation to the public by the use of restricted titles as set forth in RCW 18.04.345 by a person or firm that the person or firm holds a license or practice privileges under the act and that the person or firm offers to perform any professional services to the public as a licensee. "Holding out" shall not affect a person or firm not required to hold a license under the act from engaging in practices identified in RCW 18.04.350.

(20) **"Inactive"** means the certificate is in an inactive status because a person, who held a valid certificate on June 30, 2001, has not met the current requirements of licensure and has been granted inactive certificateholder status through the renewal process established by the board.

(21) **"Independence"** means an absence of relationships that impair a licensee's impartiality and objectivity in rendering attest services.

(22) **"Interactive self-study program"** means a CPE program designed to use learning methodologies that simulate a classroom learning process by employing software or administrative systems that provide significant ongoing interactive feedback to learners regarding their learning progress.

(23) **"IRS"** means Internal Revenue Service.

(24) **"License"** means a license to practice public accountancy issued to an individual under the act or a license issued to a firm under the act.

(25) **"Licensee"** means the holder of a license to practice public accountancy issued under the act.

(26) **"Manager"** means a manager of a limited liability company licensed as a firm under the act.

(27) **"NASBA"** means the National Association of State Boards of Accountancy.

(28) **"Natural person"** means a living, human being.

(29) **"Nonlicensee owner"** means a CPA firm owner who is not licensed in any state to practice public accountancy.

(30) **"PCAOB"** means Public Company Accounting Oversight Board.

(31) **"Peer review"** means a study, appraisal, or review of one or more aspects of the attest work of a licensee or licensed firm in the practice of public accountancy, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed, including a peer review, or any internal review or inspection intended to comply with quality control policies and procedures, but not including the "quality assurance review" under RCW 18.04.025(14).

(32) **"Practice privileges"** means an individual:

• Has a principal place of business outside of Washington state;

• Is licensed to practice public accounting in another state;

• Has notified the board of intent to enter the state;

• Meets the statutory criteria for a grant of privileges;

• Is subject to discipline in the state of Washington; and

• Must comply with the act and all board rules applicable to Washington state licensees to retain the privilege.

(33) **"Principal place of business"** means a single fixed location designated by the individual from which the individual directs, controls, and coordinates the majority of his or her business activities.

(34) **"Public practice"** or the **"practice of public accounting"** means performing or offering to perform by a person or firm holding itself out to the public as a licensee, for a client or potential client, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of "audit reports," "review reports," or "compilation reports" on financial statements, or one or more kinds of management advisory, or consulting services, or the preparation of tax returns, or the furnishing of advice on tax matters.

(35) **"Quality assurance review or QAR"** is the process, established by and conducted at the direction of the board, of study, appraisal, or review of one or more aspects of

the attest work of a licensee or licensed firm in the practice of public accountancy, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed.

(36) **"Reciprocity"** means board recognition of licenses, certificates or other professional accounting credentials that the board will rely upon in full or partial satisfaction of licensing requirements.

(37) **"Referral fees"** see definition of "commissions and referral fees" in subsection (10) of this section.

(38) **"Reports on financial statements"** means any reports or opinions prepared by licensees, based on services performed in accordance with generally accepted auditing standards, standards for attestation engagements, or standards for accounting and review services, as to whether the presentation of information used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private, or governmental, conforms with generally accepted accounting principles or other comprehensive bases of accounting. "Reports on financial statements" does not include services referenced in RCW 18.04.350(6) provided by persons not holding a license under the act.

(39) **"Representing oneself"** for the purposes of RCW 18.04.295(2) and WAC 4-25-910(3), means having a license, practice privilege, certificate or registration that entitles the holder to use the title "CPA," "CPA-Inactive," or be a nonlicensee firm owner.

(40) **"Rules of professional conduct"** means rules adopted by the board to govern the conduct of CPAs and CPA firms while representing themselves to others as CPAs. These rules also govern the conduct of nonlicensee firm owners and all persons using the title CPA or CPA-Inactive.

(41) **"SEC"** means the Securities and Exchange Commission.

(42) **"State"** includes the states and territories of the United States, including the District of Columbia, Puerto Rico, Guam, and the United States Virgin Islands.

(43) **"Statements on auditing standards (SAS)"** are interpretations of the generally accepted auditing standards and are issued by the Auditing Standards Board of the AICPA. Licensees are required to adhere to these standards in the performance of audits of financial statements.

(44) **"Statements on standards for accounting and review services (SSARS)"** are standards, promulgated by the AICPA, to give guidance to licensees who are associated with the financial statements of nonpublic companies and issue compilation or review reports.

(45) **"Statements on standards for attestation engagements (SSAE)"** are guidelines, promulgated by the AICPA, for use by licensees in attesting to assertions involving matters other than historical financial statements and for which no other standards exist.

[Statutory Authority: RCW 18.04.055. 03-24-033, § 4-25-410, filed 11/25/03, effective 12/31/03. Statutory Authority: RCW 18.04.055(16). 02-04-064, § 4-25-410, filed 1/31/02, effective 3/15/02. Statutory Authority: RCW 18.04.055(11). 01-11-124, § 4-25-410, filed 5/22/01, effective 6/30/01; 98-12-020, § 4-25-410, filed 5/27/98, effective 6/27/98; 94-23-071, § 4-25-410, filed 11/15/94, effective 12/16/94.]

WAC 4-25-530 Fees. The board shall charge the following fees:

(1)	Initial application for individual license, practice privilege, individual license through reciprocity, CPA firm license (sole proprietorships with no employees are exempt from the fee), or registration as a resident nonlicensee firm owner	$330	
(2)	Renewal of individual license, certificate, practice privilege, CPA firm license (sole proprietorships with no employees are exempt from the fee), or registration as a resident nonlicensee firm owner	$230	
(3)	Application for certificateholder to convert to a license	$0	
(4)	Application for reinstatement of license, practice privilege, certificate, or registration as a resident nonlicensee owner	$480	
(5)	Quality assurance review program fee (includes monitoring reviews for up to two years)	$400	
(6)	Late fee	$100	
(7)	Amendment to firm license	$25	
(8)	Copies of records, per page exceeding fifty pages	$0.15	
(9)	Printed listing of CPA exam candidates	$75	
(10)	Computer diskette listing of licensees, certificateholders, grants of practice privilege, and registered resident nonlicensee firm owners; computer diskette of CPA exam candidates; or computer diskette of firms	$75	
(11)	Replacement CPA wall document	$50	
(12)	Dishonored check fee (including, but not limited to, insufficient funds or closed accounts)	$35	
(13)	CPA examination. Exam fees are comprised of section fees plus administrative fees. **The total fee is contingent upon which section(s) is/are being applied for and the number of sections being applied for at the same time.** The total fee is the section fee(s) for each section(s) applied for added to the administrative fee for the number of section(s) applied for.		
(a)	Section fees:		
(i)	Auditing and attestation	$134.50	
(ii)	Financial accounting and reporting	$126.00	
(iii)	Regulation	$109.00	
(iv)	Business environment and concepts	$100.50	
(b)	Administrative fees:	**1/1/04 - 12/31/06**	**After 1/1/07**
(i)	First-time candidate - Four sections	$124.50	$132.95

(ii) First-time candidate - Three sections	$111.00	$119.10
(iii) First-time candidate - Two sections	$97.00	$104.70
(iv) First-time candidate - One section	$83.00	$90.30
(v) Reexam candidate - Four sections	$122.50	$130.75
(vi) Reexam candidate - Three sections	$104.00	$111.40
(vii) Reexam candidate - Two sections	$85.00	$91.50
(viii) Reexam candidate - One section	$66.00	$71.60

Note: The board may waive late filing fees for good cause.

[Statutory Authority: RCW 18.04.065, [18.04.]105(3), [18.04.]195(7), [18.04.]205(4), [18.04.]215(8), [18.04.]350 (2)(a), and 42.17.260(8). 04-01-076, § 4-25-530, filed 12/15/03, effective 1/15/04. Statutory Authority: RCW 18.04.055, [18.04].065, [18.04].105 (1)(e) and (3). 02-22-083, § 4-25-530, filed 11/5/02, effective 12/31/02. Statutory Authority: RCW 18.04.055, 18.04.065, 18.04.105(3), 18.04.195(7), 18.04.205(4), 18.04.215(8), and 18.04.350(2). 01-22-036, § 4-25-530, filed 10/30/01, effective 12/1/01. Statutory Authority: RCW 18.04.055, 18.04.065, 18.04.105(7), 18.04.195(6) and 18.04.205(4). 99-18-112, § 4-25-530, filed 9/1/99, effective 1/1/00. Statutory Authority: RCW 18.04.055, 18.04.065 and 18.04.195(b). 99-02-009, § 4-25-530, filed 12/24/98, effective 5/7/99. Statutory Authority: RCW 18.04.055, 18.04.065 and 18.04.195(6). 96-12-060, § 4-25-530, filed 5/31/96, effective 7/1/96. Statutory Authority: RCW 18.04.055. 93-12-075, § 4-25-530, filed 5/27/93, effective 7/1/93.]

WAC 4-25-622 When must a CPA or CPA firm be independent? When performing attest services, CPAs and CPA firms are responsible for maintaining independence so that attest opinions, reports, conclusions, and judgments will be impartial and viewed as impartial by parties expected to rely on the attest report. CPAs and CPA firms are required:

• To comply with all applicable independence rules, regulations, and the AICPA code of conduct as referenced in and required by WAC 4-25-631; and

• To decline attest engagements where the CPA or CPA firm has a relationship that could lead a reasonable and foreseeable user to conclude that the CPA or CPA firm is not independent.

Independence is not required when performing a compilation engagement provided the CPA's report discloses a lack of independence.

[Statutory Authority: RCW 18.04.055(2). 03-24-034, § 4-25-622, filed 11/25/03, effective 12/31/03; 98-12-049, § 4-25-622, filed 5/29/98, effective 6/29/98. Statutory Authority: RCW 18.40.055. 93-22-046, § 4-25-622, filed 10/28/93, effective 11/28/93.]

WAC 4-25-640 What are the requirements concerning records and clients confidential information? (1) **Client:** The term "client" as used throughout this section includes former and current clients. For purposes of this section, a client relationship has been formed when confidential information has been disclosed by a prospective client in an initial interview to obtain or provide professional services.

(2) **Property of the licensee:** In the absence of an express agreement between the licensee and the client to the contrary, all statements, records, schedules, working papers, and memoranda made by a licensee incident to or in the course of professional service to clients, except reports submitted by a licensee, are the property of the licensee.

(3) **Sale or transfer of client records:** No statement, record, schedule, working paper, or memorandum, including electronic records, may be sold, transferred, or bequeathed without the consent of the client or his or her personal representative or assignee, to anyone other than one or more surviving partners, shareholders, or new partners or new shareholders of the licensee, partnership, limited liability company, or corporation, or any combined or merged partnership, limited liability company, or corporation, or successor in interest.

(4) **Confidential client communication or information:** A licensee, certificateholder, firm owner, or employee of a licensee must not without the consent of the client or the heirs, successors or personal representatives of the client disclose any confidential communication or information pertaining to the client obtained in the course of performing professional services.

This rule does not:

(a) Affect in any way a licensee's, certificateholder's, firm owner's, or employee of a licensee's obligation to comply with a lawfully issued subpoena or summons;

(b) Prohibit disclosures in the course of a quality review of a licensee's attest services;

(c) Preclude a licensee, certificateholder, firm owner, or employee of a licensee from responding to any inquiry made by the board or any investigative or disciplinary body established by law or formally recognized by the board. However, a licensee, certificateholder, firm owner, or employee of a licensee must not disclose or use to their own advantage any confidential client information that comes to their attention in carrying out their official responsibilities; or

(d) Preclude a review of client information in conjunction with a prospective purchase, sale, or merger of all or part of a CPA's practice.

(5) **Client records:** Licensees, certificateholders, and firm owners must furnish to their client or heirs, successors or personal representatives, upon request and reasonable notice:

(a) A copy of the licensee's, certificateholder's or firm owner's records, schedules, and electronic documents, to the extent that such records and schedules would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(b) Any accounting or other records belonging to, or obtained from or on behalf of, the client, that the licensee, certificateholder, or firm owner removed from the client's premises or received for the client's account, including electronic documents; but the licensee, certificateholder, or firm owner may make and retain copies of such documents of the client when they form the basis for work done by the licensee, certificateholder, or firm owner.

Licensees, certificateholders, and firm owners must not refuse to return client records, including electronic documents, pending client payment of outstanding fees.

(6) **Audit and review record retention requirements:** For a period of seven years after a licensee concludes an audit or review the licensee must retain the following records and documents, including electronic records unless hard copies of such exist:

(a) Records forming the basis of the audit or review;

(b) Records documenting audit or review procedures applied;

(c) Records documenting evidence obtained including financial data, analyses, conclusions, and opinions related to the audit or review engagement; and

(d) Records documenting conclusions reached by the licensee in the audit or review engagement.

[Statutory Authority: RCW 18.04.055(2), 18.04.390 (4)(b) and 18.04.405(1). 03-24-033, § 4-25-640, filed 11/25/03, effective 12/31/03. Statutory Authority: RCW 18.04.055(2). 02-22-082, § 4-25-640, filed 11/5/02, effective 12/31/02. Statutory Authority: RCW 18.40.055. 93-22-046, § 4-25-640, filed 10/28/93, effective 11/28/93.]

WAC 4-25-670 What enforcement actions must be reported to the board? (1) A licensee, certificateholder, or nonlicensee firm owner must notify the board, on a form and in the manner prescribed by board policy, within **thirty days** of the issuance of:

(a) A sanction, order, suspension, revocation, or modification of a license, certificate, permit or practice rights by the SEC, PCAOB, IRS, or another state board of accountancy for any cause other than failure to pay a professional license fee by the due date or failure to meet the continuing professional education requirements of another state board of accountancy; or

(b) Charges filed by the SEC, IRS, PCAOB, another state board of accountancy, or a federal or state taxing, insurance or securities regulatory body that the licensee, certificateholder, or nonlicensee firm owner committed a prohibited act that would be a violation of board ethical or technical standards.

(2) Sole practitioners are to report action pursuant to subsection (1) of this section taken against the sole practitioner, the sole practitioner's individual CPA license, the CPA firm, or the CPA firm license.

(3) Licensed CPA firms are not required to report on action taken against owners, principals, partners, or employees.

(4) If you hold a license or certificate issued through the foreign reciprocity provisions of the act, you must notify the board of any investigations undertaken, or sanctions imposed, by a foreign credentialing body against your foreign credential within thirty days of your receiving notice that an investigation has begun or a sanction was imposed.

[Statutory Authority: RCW 18.04.195 (10)(b) and 18.04.215 (9)(b). 03-24-033, § 4-25-670, filed 11/25/03, effective 12/31/03.]

WAC 4-25-720 How do I apply to take the CPA examination? (1) **Application form and due dates:**

(a) **For examinations held prior to January 1, 2004:**

(i) Your application to take the CPA examination must be made on a form provided by the board's designee and filed with the board's designee on or before March 1 for the May examination and September 1 for the November examination. Applications, including all required documentation, for the May examination must be postmarked by March 1 (and received by March 10). Applications, including all required documentation, for the November examination must be postmarked by September 1 (and received by September 10). An application is not considered filed until the board's designee has received the examination fee.

(ii) **Proctoring CPA exam candidates:** The board may agree to request the assistance of another accountancy board in proctoring Washington's applicants at out-of-state exam sites and may agree to proctor another accountancy board's applicants at a Washington exam site, both subject to space and staffing constraints. The board will not arrange for out-of-state proctoring for applicants domiciled out-of-state who wish to take the uniform CPA exam as Washington candidates. Such applicants must take the CPA exam in Washington on a space available basis.

(b) **For examinations held after December 31, 2003:** Your application to take the CPA examination must be made on a form provided by the board's designee and filed with the board's designee by the due date specified by the board on the application form. Your application is not considered filed until all of the following are received by the board's designee:

- A fully completed application form;
- Fee(s);
- Proof that you have met the education requirements;
- Your proof of identity as determined by the board and specified on the application form;
- Other required supporting documents; and
- Proof from NASBA's National Candidate Data Base that you have not previously taken, or applied to take, the exam during the current examination period.

(2) **Failure to attend the exam:** If you fail to appear for examination, you forfeit the fees charged for examination.

(3) **Notice of admittance to the examination or denial of your application:**

(a) **For examinations held prior to January 1, 2004:** Notice of the denial of your application, or notice of your admittance to the examination along with the time and place of the examination, will be mailed to you at least ten days prior to the date set for the examination.

(b) **For examinations held after December 31, 2003:** Notice of the denial of your application, or notice of your eligibility to take the examination will be mailed to you by the board's designee. You will contact the board's designee or the approved test site to schedule the time and location for your examination. Your notice of eligibility to take the examination will be valid for one taking of the examination within the six months following the date of your notice of eligibility to take the examination.

(4) **Examination content:** The CPA examination shall test the knowledge and skills required for performance as an entry-level certified public accountant. The examination shall include the subject areas of accounting and auditing and related knowledge and skills as the board may require. The examination will consist of the following four sections: Auditing and attestation; financial, accounting and reporting; regulation; and business environment and concepts.

(5) **Examination, grading and conditioning:**

(a) **For examinations held prior to January 1, 2004:** The board uses all parts of the uniform CPA examination and the advisory grading services of the American Institute of Certified Public Accountants. Seventy-five or better is a passing grade for each section of the examination. Each time you sit for the examination you must take all sections you have not previously passed. You are required to pass all sections of the examination in order to qualify for a license. If at a given sitting of the examination you pass two or more, but not all

sections of the examination, then you will receive credit for those sections that you pass and you will not be required to take those sections again provided:

(i) You took all unpassed sections of the examination at that sitting;

(ii) You attained a minimum grade of fifty on each section of the examination not passed at that sitting;

(iii) You pass the remaining sections of the examination within six consecutive examinations given after the one at which the first sections were passed;

(iv) At each subsequent sitting you take all sections not yet passed and you attain a minimum grade of fifty on those sections taken but not passed at that sitting; and

(v) In order to receive credit for passing additional sections in a subsequent sitting you attain a minimum grade of fifty on sections taken but not passed at that sitting.

(b) **For examinations held after December 31, 2003:** The board uses all parts of the uniform CPA examination and the advisory grading services of the American Institute of Certified Public Accountants.

(i) To qualify to apply for a license you must attain the national uniform passing grade, approved by the board by policy, on all four sections of the examination.

(ii) You may take the required four sections individually and in any order. Credit for any section(s) taken and passed after December 31, 2003, will be valid for eighteen months from the actual date you took the passed section, without having to attain a minimum score on any failed section(s) and without regard to whether you have taken other sections.

(iii) You must pass all four sections of the examination within a rolling eighteen-month period, which begins on the date that the first section(s) is passed. When determining the date that a section is passed the date that is used is the date that you took the exam section and not the date that your grade(s) is released.

(iv) You may not retake a failed section(s) in the same examination window. An examination window refers to a three-month period in which candidates have an opportunity to take the examination (comprised of two months in which the examination is available to be taken and one month in which the examination will not be offered while routine maintenance is performed and the item bank is refreshed).

(v) In the event you do not pass all four sections of the examination within the rolling eighteen-month period, credit for any section(s) passed prior to the eighteen-month period will expire and you must retake that section(s).

(c) **Transitioning for candidates obtaining conditional credits under the provisions of (a) of this subsection:**

(i) If you earned conditional credit(s) under the provisions of (a) of this subsection and as of February 15, 2004, those conditional credits remained valid under the provisions of (a) of this subsection, you will retain conditional credit for the corresponding sections of the examination as follows:

Examination section taken prior to January 1, 2004	Examination section taken after December 31, 2003
Auditing	Auditing and Attestation
Financial Accounting and Reporting (FARE)	Financial Accounting and Reporting
Accounting and Reporting (ARE)	Regulation
Examination section taken prior to January 1, 2004	Examination section taken after December 31, 2003
Business Law and Professional Responsibilities (LPR)	Business Environment and Concepts

(ii) If you qualify for conditional credit(s) for a section of the examination under (c)(i) of this subsection, you will lose the conditional credit(s) for the section unless you complete all remaining section(s) of the examination within the transition period which is the lesser of:

• The maximum number of testing opportunities that you had remaining to complete all sections of the examination under the provisions of (a) of this subsection; or

• The number of remaining testing opportunities you had remaining to complete all sections of the examination under the provisions of (a) of this subsection multiplied by six months.

(iii) If you do not pass all remaining sections during the transition period, the conditional credit for the section(s) you passed under the provision of (a) of this subsection will become invalid. Any section you pass after December 31, 2003, will be subject to the provisions of (b) of this subsection with the following exception:

• You will not lose conditional credit for any section passed during the transition period, even though more than eighteen months may have elapsed from the date the section is passed, until the end of your transition period.

(iv) You will retain credit for any and all sections of an examination passed in another state if credit would have been given under the Washington state requirements in effect on the date you took the examination.

(v) If you pass a section of the examination, the date you took the section of the examination is the date you receive credit for passing the section.

(6) **Ethics exam:** Upon passing the CPA examination, applicants for licensure are required to attain and demonstrate a passing grade of ninety percent or better on the AICPA professional code of conduct examination.

[Statutory Authority: RCW 18.04.105(2). 03-17-041, § 4-25-720, filed 8/15/03, effective 9/30/03. Statutory Authority: RCW 18.04.055(5) and 18.04.105(2). 02-04-064, § 4-25-720, filed 1/31/02, effective 3/15/02. Statutory Authority: RCW 18.04.055. 93-12-070, § 4-25-720, filed 5/27/93, effective 7/1/93.]

WAC 4-25-721 What does the board consider to be cheating on the CPA examination, what actions may the board take if cheating is suspected, and what sanctions may the board impose if cheating occurs? (1) Cheating includes, but is not limited to:

(a) Unauthorized communication with others inside or outside of the examination room while the examination is in progress;

(b) Substitution by a candidate of another person to sit in the test site and take the examination on behalf of the candidate;

(c) Referencing crib sheets, text books, or other unauthorized material or electronic media inside or outside the examination room while the examination is in progress;

(d) Copying or attempting to copy another candidate's answers;

(e) Disclosing or attempting to disclose examination questions and/or answers to others;

(f) Bringing unauthorized prohibited items into the examination site or possessing unauthorized prohibited items in the examination site;

(g) Retaking or attempting to retake a section by an individual who holds a license or who has unexpired credit for passing the section, unless the individual has been expressly authorized by the board to participate in a "secret shopper" program.

(2) Cheating on the CPA examination is dishonesty directly related to the professional responsibilities of a CPA and demonstrates a lack of good character. When determining appropriate sanctions for cheating, the board may impose one or more of the following penalties:

(a) Enter a failing grade for any or all parts of the candidate's examination;

(b) Bar a candidate from taking future examinations; or

(c) Notify other jurisdictions of the board's conclusions and order.

(3) If a candidate is suspected of cheating, the board or its representative(s) may expel the candidate from the examination or move the candidate suspected of cheating to a position in the test center that is away from other examinees or where the candidate may be more closely observed. The board or its representatives may require a candidate suspected of cheating, or a candidate who may have observed cheating, to respond to board inquiry. The board may schedule a hearing to determine the validity of the charge of cheating.

[Statutory Authority: RCW 18.04.105(2). 03-17-042, § 4-25-721, filed 8/15/03, effective 9/30/03. Statutory Authority: RCW 18.04.055. 02-04-064, § 4-25-721, filed 1/31/02, effective 3/15/02. Statutory Authority: RCW 18.04.055(11). 01-11-127, § 4-25-721, filed 5/22/01, effective 6/30/01. Statutory Authority: RCW 18.04.055. 93-12-069, § 4-25-721, filed 5/27/93, effective 7/1/93.]

WAC 4-25-750 What are the CPA firm licensing requirements? Attest services may only be offered or performed in a CPA firm licensed in Washington. An entity wishing to use "CPA(s)" or "certified public accountant(s)" in the firm name must first obtain a license from the board.

(1) **How may a CPA firm be organized?** A CPA firm may be organized as:

(a) A proprietorship;

(b) A partnership;

(c) A professional corporation (PC) or professional service corporation (PS);

(d) A limited liability company (LLC);

(e) A limited liability partnership (LLP); or

(f) Any other form of legal entity authorized by statute for use by a CPA firm.

(2) **What happens when a CPA firm alters its legal form?** A change in the legal form of a firm constitutes a new firm. Accordingly, the new entity must first obtain a CPA firm license from the board.

(3) **What are the ownership requirements for a CPA firm?**

(a) All owners of a licensed CPA firm are required to:

(i) Be natural persons;

(ii) Fully comply with the provisions of chapter 18.04 RCW; and

(iii) Subject to discipline by the board for violations of chapter 18.04 RCW or 4-25 WAC;

(b) A simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all partners, owners, or shareholders must be:

(i) Licensees in this state or holders of a valid license to practice public accountancy issued by another state;

(ii) Entitled to practice public accounting in this state; and

(iii) Principally employed by the corporation or actively engaged in its business.

(c) At least one general partner of a partnership, one shareholder of a corporation, and one manager of a limited liability company must be a licensee.

(d) Each CPA proprietor, partner, shareholder or manager who is either a resident or is entering the state and practicing public accountancy in this state must hold a valid Washington state license or practice privileges.

(e) The principal partner of the partnership and any partner having authority over issuing reports on financial statements must be a licensee under the act or holder of a valid license to practice public accountancy issued by another state and must be entitled to practice public accounting in this state.

(f) The principal officer of the corporation and any officer or director having authority over issuing reports on financial statements must be a licensee under the act or holder of a valid license to practice public accountancy issued by another state and must be entitled to practice public accountancy in this state.

(g) The principal manager or member of a limited liability company and any member having authority over issuing reports on financial statements must be a licensee under the act or holder of a valid license to practice public accountancy issued by another state and must be entitled to practice public accountancy in this state.

(h) A nonresident CPA owner must be licensed to practice public accountancy in at least one state.

(i) A nonlicensee owner must:

(i) Be a natural person;

(ii) Meet the good character requirements of RCW 18.04.105 (1)(a);

(iii) Comply with the act and board rules; and

(iv) Be an active individual participant in the licensed firm or affiliated entities as these terms are defined in WAC 4-25-410; and

(j) A resident nonlicensee firm owner must meet the requirements of WAC 4-25-752 and register with the board concurrent with submission of the firm license, or submission of an amendment to the firm license, to the board.

(4) **What are the requirements for the firm's main office and a branch office?** The firm's main office must be under the direct supervision of a resident licensee.

A branch office is an office of a licensed CPA firm which is physically separated from the main office. A branch office operates under the CPA firm license of the main office.

(5) **How do I apply for an initial CPA firm license?** To apply for an initial CPA firm license you must use the application form(s) provided by the board and submit the

completed form(s), all applicable fees, all required documentation including the following to the board's office:

(a) The firm name;

(b) Address and telephone number of the main office and any branch offices of the firm;

(c) Name of the managing licensee of the main office;

(d) Licensee owners' names and the states in which they hold CPA licenses;

(e) Name(s) of all nonlicensee owners;

(f) Complete registration form(s), including the appropriate fee, for each resident nonlicensee owner;

(g) Names of corporate directors, limited liability company managers, and all officers; and

(h) Type of legal organization under which the firm operates.

An application is not complete and cannot be processed until all fees, required information, and required documentation is received by the board. Upon completion of processing, a CPA firm license will be mailed to the main office at the last address provided to the board.

The initial CPA firm license will expire on June 30 of the third calendar year following initial licensure.

(6) **How do I renew a CPA firm license?** To renew a CPA firm license you must use the form(s) provided by the board. In January of the year of expiration, a renewal form(s) will be mailed to the main office at the last address provided to the board. You must submit a properly completed renewal form(s), all applicable fees and all required documentation to the board by April 30th of the year of expiration. Failure to file a complete renewal form for a firm license by April 30 of the year of expiration will result in late fees. The board may waive, reduce, or extend the due date of renewal and/or late fees based on individual hardship. A renewal application is not complete and cannot be processed until all fees, required information, and required documentation is received by the board. Upon completion of processing, the CPA firm license will be mailed to the main office at the last address provided to the board.

The CPA firm license will expire on June 30 of the third calendar year following the date of renewal.

(7) **When must I notify the board of changes in the CPA firm?** A CPA firm must provide the board written notification of the following within ninety days of its occurrence:

(a) Dissolution of a CPA firm;

(b) The occurrence of any event that would cause the firm to be in violation of RCW 18.04.195 or this rule; or

(c) An event that requires an amendment to a firm license.

(8) **What events require a firm amendment?** A CPA firm must provide written notification to the board, by submitting a firm amendment form and the appropriate amendment fee, within ninety days of the following events' occurrence:

(a) Admission or departure of an owner;

(b) Any change in the name of the firm;

(c) Change in the managing licensee of the main office; and

(d) Opening, closing, or relocating of the main office or of any branch office.

(9) **How long do I have to correct noncompliance with licensure requirements due to a change in ownership or an owner's credentials?** A CPA firm must notify the board within ninety days of any change in ownership or lapse of an owner's license, certificate, registration or practice privilege that has caused the firm's license to be out of compliance with licensure requirements and must correct the noncompliance within ninety days of the lapse, unless the board grants a longer time period due to individual hardship.

[Statutory Authority: RCW 18.04.055(8), 18.04.195 and 18.04.205. 03-24-033, § 4-25-750, filed 11/25/03, effective 12/31/03; 02-04-064, § 4-25-750, filed 1/31/02, effective 3/15/02; 00-11-074, § 4-25-750, filed 5/15/00, effective 6/30/00. Statutory Authority: RCW 18.04.055(8) and 18.04.205(3). 99-18-117, § 4-25-750, filed 9/1/99, effective 1/1/00. Statutory Authority: RCW 18.04.055(3), 18.04.205(3) and 18.04.195. 96-12-061, § 4-25-750, filed 5/31/96, effective 7/1/96. Statutory Authority: RCW 18.04.055. 93-22-089, § 4-25-750, filed 11/2/93, effective 12/3/93.]

WAC 4-25-910 What are the bases for the board to impose discipline? RCW 18.04.055, 18.04.295, and 18.04.305 authorize the board to revoke, suspend, refuse to renew or reinstate an individual or firm license, certificate, practice privilege, or registration as a resident nonlicensee firm owner; impose a fine not to exceed thirty thousand dollars; recover investigative and legal costs; impose full restitution to injured parties; impose remedial sanctions; impose conditions precedent to renew; or prohibit a nonlicensee from holding an ownership interest in a licensed firm for the specific acts listed below.

The following are specific examples of prohibited acts that constitute grounds for discipline under RCW 18.04.295 and 18.04.305. The board does not intend this listing to be all inclusive.

(1) Fraud or deceit in obtaining a license or in any filings with the board.

(2) Making a false or misleading statement in support of another's application for a license and/or certificate.

(3) Dishonesty, fraud, or negligence while representing oneself as a CPA, CPA firm, or a nonlicensee firm owner including but not limited to:

(a) Practicing public accounting in Washington state prior to obtaining a license;

(b) Making misleading, deceptive, or untrue representations;

(c) Engaging in acts of fiscal dishonesty;

(d) Purposefully, knowingly, or negligently failing to file a report or record, or filing a false report or record, required by local, state, or federal law;

(e) Unlawfully selling unregistered securities;

(f) Unlawfully acting as an unregistered securities salesperson or broker-dealer;

(g) Discharging a trustee's duties in a negligent manner or breaching one's fiduciary duties; or

(h) Withdrawing or liquidating, as fees earned, funds received by a CPA, CPA firm, or a nonlicensee firm owner from a client as a deposit or retainer when the client contests the amount of fees earned, until such time as the dispute is resolved.

(4) The following shall be prima facie evidence that a CPA, CPA firm, or a nonlicensee firm owner has engaged in dishonesty, fraud, or negligence while representing oneself as a CPA, CPA firm, or a nonlicensee firm owner:

(a) An order of a court of competent jurisdiction finding the CPA, CPA firm, or the nonlicensee firm owner to have

committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on a CPA's, CPA firm's, or nonlicensee firm owner's fitness to represent himself or herself as a CPA, CPA firm, or a nonlicensee firm owner;

(b) An order of a federal, state, local or foreign jurisdiction regulatory body finding the CPA, CPA firm, or nonlicensee firm owner to have committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on a CPA's, the nonlicensee firm owner's, or CPA firm's fitness to represent itself as a CPA, a nonlicensee firm owner, or a CPA firm;

(c) Cancellation, revocation, suspension, or refusal to renew the right to practice as a CPA or a nonlicensee firm owner by any other state for any cause other than failure to pay a fee or to meet the requirements of continuing education in the other state; or

(d) Suspension or revocation of the right to practice before any state or federal agency.

(5) Any state or federal criminal conviction or commission of any act constituting a crime under the laws of this state, or of another state, or of the United States.

(6) A conflict of interest such as:

(a) Self dealing as a trustee, including, but not limited to:

(i) Investing trust funds in entities controlled by or related to the trustee;

(ii) Borrowing from trust funds, with or without disclosure; and

(iii) Employing persons related to the trustee or entities in which the trust has a beneficial interest to provide services to the trust (unless specifically authorized by the trust creation document).

(b) Borrowing funds from a client unless the client is in the business of making loans of the type obtained by the CPA, CPA firm, or nonlicensee firm owner and the loan terms are not more favorable than loans extended to other persons of similar credit worthiness.

(7) A violation of the Public Accountancy Act or failure to comply with a board rule contained in chapter 4-25 WAC.

(8) Violation of one or more of the rules of professional conduct included in chapter 4-25 WAC or concealing another's violation of the Public Accountancy Act or board rules.

(9) Failure to cooperate with the board by failing to:

(a) Furnish any papers or documents requested or ordered to produce by the board;

(b) Furnish in writing a full and complete explanation related to a complaint as requested by the board;

(c) Respond to an inquiry of the board;

(d) Respond to subpoenas issued by the board, whether or not the recipient of the subpoena is the accused in the proceeding.

(10) Failure to comply with an order of the board.

(11) A CPA's or nonlicensee firm owner's adjudication as mentally incompetent is prima facie evidence that the CPA or nonlicensee firm owner lacks the professional competence required by the rules of professional conduct.

(12) Failure of a licensee, certificateholder, or nonlicensee firm owner to notify the board, on a form and in the manner prescribed by board policy, within thirty days of the issuance of:

(a) A sanction, order, suspension, revocation, or modification of a license, certificate, permit or practice rights by the SEC, PCAOB, IRS, or another state board of accountancy for any cause other than failure to pay a professional license fee by the due date or failure to meet the continuing professional education requirements of another state board of accountancy; or

(b) Charges filed by the SEC, IRS, PCAOB, another state board of accountancy, or a federal or state taxing, insurance or securities regulatory body that the licensee, certificateholder, or nonlicensee firm owner committed a prohibited act that would be a violation of board ethical or technical standards.

[Statutory Authority: RCW 18.04.055(16), 18.04.295, and 18.04.305. 03-24-033, § 4-25-910, filed 11/25/03, effective 12/31/03. Statutory Authority: RCW 18.04.055(11), 18.04.295, and 18.04.305. 02-04-064, § 4-25-910, filed 1/31/02, effective 3/15/02; 00-11-078, § 4-25-910, filed 5/15/00, effective 6/30/00. Statutory Authority: RCW 18.04.055 and 18.04.295. 94-23-070, § 4-25-910, filed 11/15/94, effective 12/16/94.]

Title 16 WAC

AGRICULTURE, DEPARTMENT OF

Chapters

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16-100	**Refrigerated locker establishments—Recording thermometers.**
16-157	**Organic food standards and certification.**
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16-200	**Feeds, fertilizers and livestock remedies.**
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16-752	**Noxious weed control.**

Chapter 16-54 WAC
ANIMAL IMPORTATION

WAC

16-54-155 Exotic Newcastle Disease (END) quarantine.

WAC 16-54-155 Exotic Newcastle Disease (END) quarantine. This section applies to all avian species and commercial traffic originating from END quarantine areas in the United States and to bird exhibits, shows, auctions, public displays and competitions held in Washington state.

(1) Areas under quarantine. The areas under quarantine include all counties and portions of counties declared to be under quarantine for END by the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service.

(2) Items under restriction. Birds, poultry, poultry products, poultry waste, vehicles, equipment and materials that could transmit END. Included in the restriction are vehicles that make deliveries of live birds into the quarantine zone and return to Washington state.

(3) No live or dead bird of any type, including poultry, poultry product, material or poultry waste, that could transmit END may be moved into Washington state from the area under quarantine. An exemption is made for eggs that have met the requirements of 9 CFR 82.8, including washing, sanitizing and packing in new material.

(4) No equipment used for the processing of eggs or for the housing, feeding, watering, entertaining, or otherwise caring for birds of any type may be moved into Washington state from the area under quarantine unless accompanied by a certificate signed by an official of the USDA or the department of agriculture stating the equipment has been cleaned and disinfected according to a protocol established by the USDA.

(5) The driver of a commercial vehicle originating from the area under quarantine who is transporting feed or eggs into Washington state must provide proof, if asked by an agriculture inspector, of the cleaning and disinfection of the vehicle, trailer, and packing material performed immediately prior to the loading of the vehicle. This proof must be provided in writing and demonstrate that the cleaning and disinfection was performed according to the protocol established by the USDA.

(6) A driver of a vehicle of any type transporting a bird into Washington state must provide, if asked by any agriculture inspector, an original health certificate issued by an accredited veterinarian within thirty days prior to entry stating the birds are healthy and do not originate from a quarantined area. Photocopies of health certificates must have an original veterinarian signature. National Poultry Improvement Plan (NPIP) forms for movement of poultry may be used by members of NPIP with the certification that the shipment did not originate from a quarantined area.

(7) A promoter of an event in Washington state, such as an exhibit, show, auction, competition, or other public display of birds of any type shall immediately inform the state veterinarian by mail, facsimile, or electronic mail of a scheduled event. The notification shall include the contact name, mailing address, physical address of the event, and daytime telephone number.

(8) A promoter of an event in Washington state, such as an exhibit, show, auction, competition, or other public display of birds of any type, shall inform the event exhibitors and vendors in writing of this WAC, the current quarantine for END, and the risk of introducing END into Washington state. The promoter also shall require each event exhibitor and vendor to attest in writing that they are not in violation of this WAC. The signed document shall be forwarded to the state veterinarian within one week of the conclusion of the event.

[Statutory Authority: Chapters 16.36 and 34.05 RCW. 03-19-029, § 16-54-155, filed 9/9/03, effective 10/10/03.]

Chapter 16-100 WAC
REFRIGERATED LOCKER ESTABLISHMENTS—RECORDING THERMOMETERS

WAC

16-100-001 through 16-100-020 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-100-001	Promulgation. [Order 496, Promulgation, effective 6/1/47.] Repealed by 03-20-063, filed 9/26/03, effective 10/27/03. Statutory Authority: Chapters 19.32, 69.04, 69.07, 69.10, and 34.05 RCW.
16-100-010	Specifications and use. [Order 496, Regulation 1, effective 6/1/47.] Repealed by 03-20-063, filed 9/26/03, effective 10/27/03. Statutory Authority: Chapters 19.32, 69.04, 69.07, 69.10, and 34.05 RCW. Later promulgation, see WAC 16-167-050, 16-142-170, 16-165-130(29), RCW 19.32.100, 69.04.915 and Title 21 Code of Federal Regulations (21 C.F.R.) part 110.
16-100-020	Penalty. [Order 496, Penalty, effective 6/1/47.] Repealed by 03-20-063, filed 9/26/03, effective 10/27/03. Statutory Authority: Chapters 19.32, 69.04, 69.07, 69.10, and 34.05 RCW. Later promulgation, See RCW 19.32.180, 69.04.060, 69.04.070, 69.07.150, 69.10.050 and chapter 16-139 WAC.

WAC 16-100-001 through 16-100-020 Repealed. See Disposition Table at beginning of this chapter.

Chapter 16-157 WAC
ORGANIC FOOD STANDARDS AND CERTIFICATION

WAC

16-157-020 Adoption of the National Organic Program.
16-157-030 Definitions.
16-157-100 Repealed.
16-157-110 Repealed.
16-157-200 Repealed.
16-157-220 Producer fee schedule.
16-157-230 Processor fee schedule.

16-157-240 Handler fee schedule.
16-157-245 Retailer fee schedule.
16-157-250 Inspections.
16-157-255 Sampling.
16-157-260 Organic and transitional producer certification.
16-157-270 Organic food processor and handler certification.
16-157-280 Repealed.
16-157-290 Export and transaction certificates.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-157-100 Land requirements. [Statutory Authority: Chapter 15.86 RCW. 02-10-090, § 16-157-100, filed 4/29/02, effective 5/30/02.] Repealed by 03-03-044, filed 1/10/03, effective 2/10/03. Statutory Authority: Chapter 15.86 RCW.

16-157-110 Records. [Statutory Authority: Chapter 15.86 RCW. 02-10-090, § 16-157-110, filed 4/29/02, effective 5/30/02.] Repealed by 03-03-044, filed 1/10/03, effective 2/10/03. Statutory Authority: Chapter 15.86 RCW.

16-157-200 Application for certification. [Statutory Authority: Chapter 15.86 RCW. 02-10-090, § 16-157-200, filed 4/29/02, effective 5/30/02.] Repealed by 03-03-044, filed 1/10/03, effective 2/10/03. Statutory Authority: Chapter 15.86 RCW.

16-157-280 Decertification. [Statutory Authority: Chapter 15.86 RCW. 02-10-090, § 16-157-280, filed 4/29/02, effective 5/30/02.] Repealed by 03-03-044, filed 1/10/03, effective 2/10/03. Statutory Authority: Chapter 15.86 RCW.

WAC 16-157-020 Adoption of the National Organic Program. The 2001 National Organic Program final rule, 7 CFR Part 205, effective April 21, 2001, is adopted by reference as Washington state standards for the production and handling of organic crops, livestock and processed food products. The 2001 National Organic Program final rule may be obtained from the department.

[Statutory Authority: Chapter 15.86 RCW. 03-03-044, § 16-157-020, filed 1/10/03, effective 2/10/03; 02-10-090, § 16-157-020, filed 4/29/02, effective 5/30/02.]

WAC 16-157-030 Definitions. As used in this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department of agriculture or his or her duly authorized representative.

(3) "Facility" includes, but is not limited to, any premises, plant, establishment, facilities and the appurtenances thereto, in whole or in part, where organic food is prepared, handled, or processed in any manner for resale or distribution to retail outlets, restaurants, and any such other facility selling or distributing to the ultimate consumer.

(4) "New applicant" means any person that applies for organic certification for the first time, or when previous certification status has expired for at least one year.

(5) "Processor" means any handler engaged in the canning, freezing, drying, dehydrating, cooking, pressing, powdering, packaging, baking, heating, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, jarring, slaughtering or otherwise processing organic food.

(6) "Renewal applicant" means any person that has received organic certification from the department in the previous year.

(7) "Retailer" means any handler that sells organic food products directly to consumers.

(8) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

(9) "Site" means a defined field, orchard, block, pasture, paddock, garden, circle, plot or other designated area.

(10) "Transitional product" means any agricultural product that (a) is marketed using the term transitional in its labeling and advertising and (b) satisfies all of the requirements of organic except that it has had no applications of prohibited substances within one year prior to the harvest of the crop.

[Statutory Authority: Chapter 15.86 RCW. 03-03-044, § 16-157-030, filed 1/10/03, effective 2/10/03; 02-10-090, § 16-157-030, filed 4/29/02, effective 5/30/02.]

WAC 16-157-100 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-157-110 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-157-200 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-157-220 Producer fee schedule. Producers who wish to apply for the organic food certification program must apply to the department each year.

(1) The cost per application shall be based on the following fee schedule.

(a) Renewal applicants -

Application fees must be based on the previous calendar year's sales of organic food. In the event that the current calendar year's sales exceed the previous year's sales, the department may bill the producer for the additional fee. In the event that the current calendar year's sales are less than the previous year's sales, the producer may request a refund for the reduced fee. In addition, renewal applications postmarked after March 1, must pay a late fee of seventy-five dollars. Renewal applicants that are adding additional sites to their organic certification must pay a new site fee of fifty dollars for each additional site.

(b) New applicants -

Application fees must be based on an estimate of the current year's sales of organic food. In the event that the current calendar year's sales exceed the estimate, the department may bill the producer for the additional fee. In the event that the current calendar year's sales are less than the estimate, the producer may request a refund for the reduced fee. In addition, new applicants must pay a one hundred dollar new applicant fee. New applicants that are seeking organic certification for more than one site must pay a site fee of fifty dollars for each additional site. The fee shall accompany the application.

SALES			ANNUAL FEE
$ 0	-	$ 15,000	$ 200
$ 15,001	-	$ 20,000	$ 225
$ 20,001	-	$ 25,000	$ 280
$ 25,001	-	$ 30,000	$ 335
$ 30,001	-	$ 35,000	$ 390
$ 35,001	-	$ 42,500	$ 470
$ 42,501	-	$ 50,000	$ 560
$ 50,001	-	$ 65,000	$ 670
$ 65,001	-	$ 80,000	$ 835
$ 80,001	-	$100,000	$ 1,000

SALES			ANNUAL FEE
$100,001	-	$125,000	$ 1,150
$125,001	-	$150,000	$ 1,300
$150,001	-	$175,000	$ 1,450
$175,001	-	$200,000	$ 1,600
$200,001	-	$240,000	$ 1,750
$240,001	-	$280,000	$ 1,900
$280,001	-	$325,000	$ 2,050
$325,001	-	$375,000	$ 2,200
$375,001	-	$425,000	$ 2,450
$425,001	-	$500,000	$ 2,700
$500,001	-	$750,000	$ 3,000
$750,001	-	$7,000,000	$2,200 plus 0.11% of gross organic sales
over		$7,000,000	$10,000

(2) Transitional acreage fee - In addition to the producer application fee, each applicant must pay a fee of five dollars per acre for the land for which they are requesting transitional certification.

[Statutory Authority: Chapter 15.86 RCW. 03-03-044, § 16-157-220, filed 1/10/03, effective 2/10/03; 02-10-090, § 16-157-220, filed 4/29/02, effective 5/30/02.]

WAC 16-157-230 Processor fee schedule. Processors who wish to apply for the organic food certification program must apply to the department each year. Producers that process their own organic products pay application and certification fees under WAC 16-157-220.

(1) **Application fee.**

(a) **Renewal applicants -** Application fees are two hundred dollars per facility. In addition, renewal applications postmarked after March 1, must pay a late fee of seventy-five dollars.

(b) **New applicants -** Application fees are two hundred dollars per facility. In addition, new applicants must pay a one hundred dollar new applicant fee.

(2) **Certification fee -** A certification fee based on the following fee schedule must accompany the application. Certification fees are assessments on the organic products in each category. New applicants must base certification fees on an estimate of sales in each category. Renewal applicants must base certification fees on the previous calendar year's sales in each category. Applicants may have food products in more than one category.

Category I - Organic food products: Products labeled as "organic" or "one hundred percent organic" are assessed 0.30% of the previous calendar year's sales for the first million dollars and 0.11% for sales above one million dollars.

Category II - Made with organic food products: Products labeled as "made with organic ingredients" are assessed 0.20% of the previous calendar year's sales for the first million dollars and 0.07% for sales above one million dollars.

Category III - Food products with organic ingredients: Products packaged for retail sales that limit their organic claims to the information panel are assessed 0.11% of the previous calendar year's sales for the first million dollars and 0.04% for sales above one million dollars.

Category IV - Custom organic food products: Products produced by processors who charge a service fee to organic manufacturers for processing organic food are assessed at 0.40% of the previous calendar year's service fees received for processing organic food for the first million dollars and 0.11% for service fees above one million dollars.

In the event that the current calendar year's sales (or service fees) exceed the previous year's sales (or service fees) or estimate of sales, the department may bill the applicant for the additional certification fee. In the event that the current calendar year's sales (or service fees) are less than the previous year's gross sales (or service fees) or estimate of sales, the applicant may request a refund for the reduced certification fee.

[Statutory Authority: Chapter 15.86 RCW. 03-03-044, § 16-157-230, filed 1/10/03, effective 2/10/03; 02-10-090, § 16-157-230, filed 4/29/02, effective 5/30/02.]

WAC 16-157-240 Handler fee schedule. Handlers who wish to apply for the organic food certification program must apply to the department each year. Handlers that process organic food products must apply for organic certification under WAC 16-157-230. Retailers who wish to apply for the organic food certification program must apply for organic certification under WAC 16-157-245. Producers that handle only their own organic products do not need to obtain separate certification as handlers. All other handlers of organic food products may apply for organic certification under this section.

(1) Renewal applicants. Application fees must be based on the previous calendar year's sales of organic food. In the event that the current calendar year's sales exceed the previous year's sales, the department may bill the handler for the additional fee. In the event that the current calendar year's sales are less than the previous year's sales, the handler may request a refund for the reduced fee. In addition, renewal applications postmarked after March 1 must pay a late fee of seventy-five dollars.

(2) New applicants. Application fees must be based on an estimate of the current year's sales of organic food. In the event that the current calendar year's sales exceed the estimate, the department may bill the handler for the additional fee. In the event that the current calendar year's sales are less than the estimate, the handler may request a refund for the reduced fee. In addition, new applicants must pay a one hundred dollar new applicant fee.

(3) The cost per facility must be based on the following fee schedule. The appropriate fee must accompany the application.

ORGANIC SALES			FEE
$ 0	-	$ 50,000	$ 200
$ 50,001	-	$ 75,000	$ 250
$ 75,001	-	$ 100,000	$ 330
$ 100,001	-	$ 200,000	$ 440
$ 200,001	-	$ 300,000	$ 550
$ 300,001	-	$ 400,000	$ 660
$ 400,001	-	$ 500,000	$ 770
$ 500,001	-	$ 750,000	$ 990
$ 750,001	-	$ 1,000,000	$ 1,100
$1,000,001	-	$ 1,250,000	$ 1,375
$1,250,001	-	$ 1,500,000	$ 1,650
$1,500,001	-	$ 2,000,000	$ 2,200
$2,000,001	-	$ 2,500,000	$ 2,750

ORGANIC SALES		FEE
$2,500,001 -	$ 3,000,000	$ 3,300
$3,000,001 -	$ 4,000,000	$ 3,850
$4,000,001 -	$ 5,000,000	$ 4,400
$5,000,001 -	$ 6,000,000	$ 5,500
$6,000,001 -	$ 7,000,000	$ 6,600
$7,000,001 -	$ 8,000,000	$ 7,700
$8,000,001 -	$ 9,000,000	$ 8,800
$9,000,001 -	$10,000,000	$ 9,900
over	$ 10,000,000	$ 11,000

[Statutory Authority: Chapter 15.86 RCW. 03-03-044, § 16-157-240, filed 1/10/03, effective 2/10/03; 02-10-090, § 16-157-240, filed 4/29/02, effective 5/30/02.]

WAC 16-157-245 Retailer fee schedule. Retailers who wish to apply for the organic food certification program must apply to the department each year.

(1) Renewal applicants. Application fees must be based on the previous calendar year's sales of organic products. In the event that the current calendar year's sales exceed the previous year's sales, the department may bill the retailer for the additional fee. In the event that the current calendar year's sales are less than the previous year's sales, the retailer may request a refund for the reduced fee. In addition, renewal applications postmarked after March 1 must pay a late fee of seventy-five dollars.

(2) New applicants. Application fees must be based on an estimate of the current year's sales of organic food. In the event that the current calendar year's sales exceed the estimate, the department may bill the retailer for the additional fee. In the event that the current calendar year's sales are less than the estimate, the retailer may request a refund for the reduced fee. In addition, new applicants must pay a one hundred dollar new applicant fee.

(3) The cost per facility must be based on the following fee schedule. The appropriate fee must accompany the application.

ORGANIC SALES		FEE
$ 0 -	$100,000	$330
$100,001 -	$500,000	$500
$500,001 -	$1,000,000	$750
$1,000,001 -	$2,000,000	$1,000
$2,000,001 -	$3,000,000	$1,500
$3,000,001 -	$4,000,000	$2,000
$4,000,001 -	$5,000,000	$2,250
over -	$5,000,000	$2,500

[Statutory Authority: Chapter 15.86 RCW. 03-03-044, § 16-157-245, filed 1/10/03, effective 2/10/03.]

WAC 16-157-250 Inspections. The director shall make at least one inspection and any additional inspections deemed necessary to each applicant each year to determine compliance with this chapter and chapter 15.86 RCW and rules adopted pursuant to chapter 15.86 RCW. This inspection may entail a survey of required records, examination of fields, facilities and storage areas, and any other information deemed necessary by the requirements of this chapter.

The annual on-site inspection and any additional inspections conducted for collecting samples or for surveillance within the state of Washington are provided for under the application and certification fees. Additional inspections, if necessary to determine compliance or requested, will be charged to the applicant at the rate of forty dollars per hour plus mileage set at the rate established by the state office of financial management. Out-of-state inspections, if necessary or requested, shall be at the rate of $40/hr. plus transportation costs.

[Statutory Authority: Chapter 15.86 RCW. 03-03-044, § 16-157-250, filed 1/10/03, effective 2/10/03; 02-10-090, § 16-157-250, filed 4/29/02, effective 5/30/02.]

WAC 16-157-255 Sampling. A representative sample of the product may be tested for pesticide or other contaminants whenever the director deems it necessary for certification or maintenance of certification. Sample analysis is provided under the application and certification fees.

[Statutory Authority: Chapter 15.86 RCW. 03-03-044, § 16-157-255, filed 1/10/03, effective 2/10/03; 02-10-090, § 16-157-255, filed 4/29/02, effective 5/30/02.]

WAC 16-157-260 Organic and transitional producer certification. (1) Organic producers certified under this chapter may use the organic producer logo, found in WAC 16-157-275, to identify organic products.

Transitional producers certified under this chapter may use the transitional producer logo, found in WAC 16-157-275, to identify transitional products.

(2) The director must review the application, inspection report and results of any samples collected to determine that the producer has complied with the conditions for organic or transitional certification. A certificate will be issued when the director determines that the producer has complied with the conditions for organic or transitional producer certification.

[Statutory Authority: Chapter 15.86 RCW. 03-03-044, § 16-157-260, filed 1/10/03, effective 2/10/03; 02-10-090, § 16-157-260, filed 4/29/02, effective 5/30/02.]

WAC 16-157-270 Organic food processor and handler certification. (1) The director must review the application, inspection report and results of any samples collected to determine that the processor or handler has complied with the conditions for organic food certification. An organic food certificate will be issued when the director determines that the processor or handler has complied with the conditions for organic food certification.

(2) Processors certified under this chapter may use the organic processor logo, found in WAC 16-157-275, to identify organic products processed by the facility.

(3) Handlers certified under this chapter may use the organic handler logo, found in WAC 16-157-275, to identify organic products handled by the facility.

[Statutory Authority: Chapter 15.86 RCW. 03-03-044, § 16-157-270, filed 1/10/03, effective 2/10/03; 02-10-090, § 16-157-270, filed 4/29/02, effective 5/30/02.]

WAC 16-157-280 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-157-290 Export and transaction certificates. (1) Organic export and transaction certificates are issued to verify that a specific shipment of organic food products has been produced, processed, and handled in accor-

dance with the 2001 National Organic Program, 7 CFR Part 205 or a foreign organic standard.

(2) Applications for export and transaction certificates must be submitted on forms furnished by the department. The applicant must furnish all information requested on the application. A separate application must be made for each export and transaction certificate.

(3) The fee for export and transaction certificates shall be forty dollars per application.

[Statutory Authority: Chapter 15.86 RCW. 03-03-044, § 16-157-290, filed 1/10/03, effective 2/10/03; 02-10-090, § 16-157-290, filed 4/29/02, effective 5/30/02.]

Chapter 16-160 WAC

REGISTRATION OF MATERIALS FOR ORGANIC FOOD PRODUCTION

WAC

16-160-010 What is the purpose of this rule?
16-160-020 Definitions.
16-160-025 Repealed.
16-160-035 Brand name materials list.
16-160-060 What criteria are used to determine if a brand name material is approved?
16-160-070 Application fees.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-160-025 What materials are approved for use in organic food production, processing and handling? [Statutory Authority: Chapter 15.86 RCW. 99-16-054, § 16-160-025, filed 7/30/99, effective 8/30/99.] Repealed by 03-03-045, filed 1/10/03, effective 2/10/03. Statutory Authority: Chapter 15.86 RCW.

WAC 16-160-010 What is the purpose of this rule? This chapter specifies the review process and criteria for registering brand name materials used in organic food production, processing and handling. This chapter is promulgated pursuant to RCW 15.86.060 in which the director is authorized to adopt rules for the proper administration of chapter 15.86 RCW and RCW 15.86.070 in which the director is authorized to adopt rules governing the certification of producers of organic food.

[Statutory Authority: Chapter 15.86 RCW. 03-03-045, § 16-160-010, filed 1/10/03, effective 2/10/03; 99-16-054, § 16-160-010, filed 7/30/99, effective 8/30/99; 91-05-007, § 16-160-010, filed 2/7/91, effective 3/10/91.]

WAC 16-160-020 Definitions. As used in this chapter:

(1) "Animal manure" means a material composed of excreta, with or without bedding materials and/or animal drugs and collected from poultry, ruminants or other animals except humans.

(2) "Applicant" means the person who submits an application to register a material pursuant to the provisions of this chapter.

(3) "Brand name material" means any material that is supplied, distributed or manufactured by a person.

(4) "Compost" means a material produced from a controlled process in which organic materials are digested aerobically or anaerobically by microbial action.

(5) "Crop production aid" means any substance, material, structure, or device, that is used to aid a producer of an agricultural product except for fertilizers and pesticides.

(6) "Department" means the department of agriculture of the state of Washington.

(7) "Director" means the director of the department of agriculture or his or her duly authorized representative.

(8) "Distribute" means to offer for sale, hold for sale, sell, barter, deliver, or supply materials in this state.

(9) "Fertilizer" means any substance containing one or more recognized plant nutrients.

(10) "Label" means the written, printed, or graphic matter on, or attached to, the material or its immediate container.

(11) "Labeling" includes all written, printed, or graphic matter, upon or accompanying a material, or advertisement, brochures, posters, television, and radio announcements used in promoting the distribution or sale of the material.

(12) "Livestock production aid" means any substance, material, structure, or device, that is used to aid a producer in the production of livestock (e.g., parasiticides, medicines, feed additives).

(13) "Material" means any substance or mixture of substances that is intended to be used in agricultural production, processing or handling.

(14) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings, and other vegetative wastes, uncontaminated wood waste from logging and milling operations, food wastes, food processing wastes, and materials derived from these wastes through composting. "Organic waste-derived material" does not include products that include biosolids as defined in chapter 70.95 RCW.

(15) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(16) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant;

(c) Any substance or mixture of substances intended to be used as a spray adjuvant; and

(d) Any other substances intended for such use as may be named by the director by regulation.

(17) "Post-harvest material" means any substance, material, structure, or device, that is used in the post-harvest handling of agricultural products.

(18) "Processing aid" means any material used in processing that does not become an ingredient in the food product (e.g., enzymes, boiler water additives, pressing aids, and filtering aids).

(19) "Registered material" means any material that has applied for registration under this chapter, has met the criteria for approval and has been issued written approval by the department.

(20) "Registrant" means the person registering any material pursuant to the provisions of this chapter.

(21) "Soil amendment" means any substance that is intended to improve the physical characteristics of the soil, except for fertilizers and pesticides.

(22) "Spray adjuvant" means any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to its application or to its effect, and which is in a package or container separate from that of the pesticide with which it is to be used.

[Statutory Authority: Chapter 15.86 RCW. 03-03-045, § 16-160-020, filed 1/10/03, effective 2/10/03; 99-16-054, § 16-160-020, filed 7/30/99, effective 8/30/99; 91-05-007, § 16-160-020, filed 2/7/91, effective 3/10/91.]

WAC 16-160-025 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-160-035 Brand name materials list. The department maintains a list of registered materials that are approved for use in organic food production, processing or handling. The list is provided to all producers, processors and handlers of organic food who apply for certification with the department. A registered material that appears on the brand name materials list has been reviewed to verify that all of its ingredients comply with organic standards.

[Statutory Authority: Chapter 15.86 RCW. 03-03-045, § 16-160-035, filed 1/10/03, effective 2/10/03; 99-16-054, § 16-160-035, filed 7/30/99, effective 8/30/99.]

WAC 16-160-060 What criteria are used to determine if a brand name material is approved? The director reviews the information provided under WAC 16-160-040. A brand name material that meets the requirements under the 2001 National Organic Program final rule, section 205.105 and sections 205.600 through 205.606 will be registered.

[Statutory Authority: Chapter 15.86 RCW. 03-03-045, § 16-160-060, filed 1/10/03, effective 2/10/03; 99-16-054, § 16-160-060, filed 7/30/99, effective 8/30/99; 91-20-013, § 16-160-060, filed 9/20/91, effective 10/21/91; 91-05-007, § 16-160-060, filed 2/7/91, effective 3/10/91.]

WAC 16-160-070 Application fees. Whenever the department receives an application for registration of materials under this chapter, the department may conduct an inspection. This inspection may entail a survey of required records, examination of facilities, testing representative samples for prohibited materials, and any other information deemed necessary to the requirements of this chapter.

The application fee for initial registration of a pesticide, spray adjuvant, processing aid or post-harvest material is three hundred dollars per material. The application fee for initial registration of a fertilizer, soil amendment, organic waste derived material, compost, animal manure, crop production aid, or livestock production aid is two hundred dollars per material.

The application fee for renewing a registration for a pesticide, spray adjuvant, processing aid or post-harvest material is two hundred dollars per material. The application fee for renewing a registration for a fertilizer, soil amendment, organic waste derived material, compost, animal manure, crop production aid, or livestock production aid is one hundred dollars per material.

Renewal registrations postmarked after October 31 pay a late fee of thirty dollars. Inspections, if required, will be billed at forty dollars per hour plus mileage which shall be charged at the rate established by the state office of financial management.

Samples, if required for registration, or requested by the applicant, will be charged to the applicant at a rate established by the laboratory services division of the department of agriculture. If an additional visit must be arranged, it shall be at forty dollars per hour plus mileage which shall be charged at the rate established by the state office of financial management.

[Statutory Authority: Chapter 15.86 RCW. 03-03-045, § 16-160-070, filed 1/10/03, effective 2/10/03; 99-16-054, § 16-160-070, filed 7/30/99, effective 8/30/99; 91-05-007, § 16-160-070, filed 2/7/91, effective 3/10/91.]

Chapter 16-200 WAC

FEEDS, FERTILIZERS AND LIVESTOCK REMEDIES

WAC

16-200-715 Fertilizer labels.
16-200-7401 Statement of purpose—Penalty assignment.
16-200-7402 Definitions—Penalty assignment.
16-200-7403 Application of RCW 43.05.100 and 43.05.110—Issuance of a civil penalty without first issuing a notice of correction.
16-200-7404 Calculation of a civil penalty.
16-200-7405 Denial or cancellation of a bulk fertilizer distribution license.
16-200-7406 Other dispositions of alleged violations.
16-200-7407 Penalty assignment schedule.
16-200-750 Repealed.
16-200-755 Repealed.
16-200-760 Repealed.
16-200-770 Repealed.
16-200-790 Repealed.
16-200-795 Repealed.
16-200-805 Repealed.
16-200-815 Repealed.
16-200-820 Repealed.
16-200-830 Repealed.
16-200-840 Repealed.
16-200-860 Repealed.
16-200-865 Repealed.
16-200-885 Repealed.
16-200-887 Repealed.
16-200-890 Repealed.
16-200-900 Repealed.
16-200-910 Repealed.
16-200-920 Repealed.
16-200-930 Repealed.
16-200-940 Repealed.
16-200-950 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-200-750 Definitions and terms. [Statutory Authority: RCW 15.53.9012. 99-17-043, § 16-200-750, filed 8/13/99, effective 9/13/99; 96-15-018A (Order 5098), § 16-200-750, filed 7/9/96, effective 8/9/96; Order 1016, filed 5/20/66.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-755 Label format. [Statutory Authority: RCW 15.53.9012. 99-17-043, § 16-200-755, filed 8/13/99, effective 9/13/99; 96-15-018A (Order 5098), § 16-200-755, filed 7/9/96, effective 8/9/96.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-760 Brand and product names. [Statutory Authority: RCW 15.53.9012. 99-17-043, § 16-200-760, filed 8/13/99, effective 9/13/99; 96-15-018A (Order 5098), § 16-200-760, filed 7/9/96, effective 8/9/96; Order 1164, § 16-200-760, filed 10/1/70; Order 1016, filed 5/20/66.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW.

Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-770 Expression of guarantees. [Statutory Authority: RCW 15.53.9012. 96-15-018A (Order 5098), § 16-200-770, filed 7/9/96, effective 8/9/96; Order 1016, filed 5/20/66.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-790 Ingredient statement. [Statutory Authority: RCW 15.53.9012. 99-17-043, § 16-200-790, filed 8/13/99, effective 9/13/99; 96-15-018A (Order 5098), § 16-200-790, filed 7/9/96, effective 8/9/96; Order 1164, § 16-200-790, filed 10/1/70; Order 1016, filed 5/20/66.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-795 Directions for use and precautionary statements. [Statutory Authority: RCW 15.53.9012. 99-17-043, § 16-200-795, filed 8/13/99, effective 9/13/99; 96-15-018A (Order 5098), § 16-200-795, filed 7/9/96, effective 8/9/96.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-805 Tonnage fees. [Statutory Authority: RCW 15.53.9012. 96-15-018A (Order 5098), § 16-200-805, filed 7/9/96, effective 8/9/96. Statutory Authority: RCW 15.53.9018. 94-08-034 (Order 5038), § 16-200-805, filed 3/31/94, effective 5/1/94; 81-18-058 (Order 1747), § 16-200-805, filed 9/1/81.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-815 Adulteration. [Statutory Authority: RCW 15.53.9012. 99-17-043, § 16-200-815, filed 8/13/99, effective 9/13/99; 96-15-018A (Order 5098), § 16-200-815, filed 7/9/96, effective 8/9/96. Statutory Authority: RCW 15.53.902. 82-23-057 (Order 1776), § 16-200-815, filed 11/17/82.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-820 Screenings. [Order 1016, filed 5/20/66.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-830 Nonprotein nitrogen. [Statutory Authority: RCW 15.53.9012. 99-17-043, § 16-200-830, filed 8/13/99, effective 9/13/99; 96-15-018A (Order 5098), § 16-200-830, filed 7/9/96, effective 8/9/96; Order 1164, § 16-200-830, filed 10/1/70; Order 1016, filed 5/20/66.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-840 Artificial color. [Order 1016, filed 5/20/66.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-860 Used sacks and containers. [Statutory Authority: RCW 15.53.9012. 96-15-018A (Order 5098), § 16-200-860, filed 7/9/96, effective 8/9/96; Order 1164, § 16-200-860, filed 10/1/70; Order 1016, filed 5/20/66.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-865 Commercial feed license. [Statutory Authority: RCW 15.53.9012. 96-15-018A (Order 5098), § 16-200-865, filed 7/9/96, effective 8/9/96.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-885 Commercial feed label submission. [Statutory Authority: RCW 15.53.9012. 96-15-018A (Order 5098), § 16-200-885, filed 7/9/96, effective 8/9/96.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-887 Good manufacturing practices. [Statutory Authority: RCW 15.53.9012. 96-15-018A (Order 5098), § 16-200-887, filed 7/9/96, effective 8/9/96.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapters 16-250 and 16-252 WAC.

16-200-890 Definitions—Animal waste products. [Order 1432, § 16-200-890, filed 3/12/76.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapter 16-256 WAC.

16-200-900 Registration requirements. [Order 1432, § 16-200-900, filed 3/12/76.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapter 16-256 WAC.

16-200-910 Refusing or cancelling registration—Procedure. [Order 1432, § 16-200-910, filed 3/12/76.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapter 16-256 WAC.

16-200-920 Quality standards. [Order 1432, § 16-200-920, filed 3/12/76.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapter 16-256 WAC.

16-200-930 Labeling requirements of animal waste products. [Order 1432, § 16-200-930, filed 3/12/76.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapter 16-256 WAC.

16-200-940 Testing required. [Order 1432, § 16-200-940, filed 3/12/76.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapter 16-256 WAC.

16-200-950 Records required. [Order 1432, § 16-200-950, filed 3/12/76.] Repealed by 03-23-129, filed 11/19/03, effective 7/1/04. Statutory Authority: Chapters 15.53 and 34.05 RCW. Later promulgation, see chapter 16-256 WAC.

WAC 16-200-715 Fertilizer labels. The following information, in the format presented, is the minimum information required for all fertilizer labels. For packaged products, this information shall either appear on the front or back of the package; or occupy at least the upper-third side of the package; or be printed on a tag and attached to the package. This information shall be in a readable and conspicuous form. For bulk products, this same information in written or printed form shall accompany delivery and be supplied to the purchaser at time of delivery.

(1) Net weight.

(2) Brand.

(3) Grade (provided that the grade shall not be required when no primary nutrients are claimed.)

(4) Guaranteed analysis*

Total Nitrogen (N)** . . . . . ___%
___% ammoniacal nitrogen
___% nitrate nitrogen
___% water insoluble nitrogen
___% urea nitrogen
___% (other recognized and determined forms of N)
Available Phosphoric Acid (P_2O_5) . . . . . ___%
Soluble Potash (K_2O) . . . . . ___%
(Other nutrients, elemental basis)*** . . . . . ___%

(5) Sources of nutrients guaranteed on the label shall be listed below the completed guaranteed analysis statement.

(6) Name and address of registrant.

(7) At a minimum, one of the following label statements:

(a) "Information received by the Washington state department of agriculture regarding the components in this product is available on the internet at http://agr.wa.gov."

Through June 30, 2006, you may use the following label statement: "Information received by the Washington state department of agriculture regarding the components in this product is available on the internet at http://www.wa.gov/agr/."

(b) "Information regarding the contents and levels of metals in this product is available on the internet at http://agr.wa.gov."

Through June 30, 2006, you may use the following label statement: "Information regarding the contents and levels of metals in this product is available on the internet at http://www.wa.gov/agr/."

(c) "Information regarding the contents and levels of metals in this product is available on the internet at http://www.regulatory-info-xx.com."

Each registrant must substitute a unique alphanumeric identifier for "xx." This statement may be used only if the registrant establishes and maintains the internet site and the internet site meets the following criteria:

(i) There is no advertising or company-specific information on the site; and

(ii) There is a clearly visible, direct hyperlink to the department's internet site specified in (a) and (b) of this subsection.

(d) "Information regarding the contents and levels of metals in this product is available on the internet at: "http://www.aapfco.org/metals.htm."

Note: The department's Uniform Resource Locator (URL) changed in 2003, thus requiring a revision to the labeling statements required in subsection (7)(a) and (b) of this section. (The new URL is "http://agr.wa.gov." The old URL was "http://www.wa.gov/agr.") In order for companies to deplete existing stocks and revise labels, the department will allow either URL to be referenced on labels distributed through June 30, 2006. During this "phase-in" period, the department will maintain a redirect link to ensure that people are directed to the appropriate website when they enter the old URL. Beginning July 1, 2006, all labels distributed in Washington using the statement in subsection (7)(a) or (b) of this section must include the new URL.

* Zero guarantees shall not be made and shall not appear in the statement.

** If chemical forms of nitrogen are claimed or required, the form shall be shown and the percentages of the individual forms shall add up to the total nitrogen percentage.

*** As prescribed by WAC 16-200-711.

[Statutory Authority: Chapters 15.54 and 34.05 RCW. 03-24-053, § 16-200-715, filed 12/1/03, effective 1/1/04. Statutory Authority: Chapter 15.54 RCW. 87-19-097 (Order 1952), § 16-200-715, filed 9/17/87.]

WAC 16-200-7401 Statement of purpose—Penalty assignment. For the purpose of fair, uniform determination of penalty as set forth in WAC 16-200-7401 through 16-200-7407, the director hereby declares:

(1) Regulatory action is necessary to deter violations of the Fertilizer Regulation Act and rules adopted under it, and to educate persons about the consequences of such violation(s); and

(2) Any regulatory action taken by the department against any person who violates the provisions of chapter 15.54 RCW and/or rules adopted under it shall be commensurate with the seriousness of the violation under the circumstances; and

(3) Each person shall be treated fairly in accordance with the rules set forth in this chapter and in adherence with the Administrative Procedure Act (chapter 34.05 RCW).

[Statutory Authority: Chapters 15.54, 34.05 RCW. 03-02-100, § 16-200-7401, filed 1/2/03, effective 2/2/03.]

WAC 16-200-7402 Definitions—Penalty assignment. In addition to the definitions set forth in RCW 15.54.270 and WAC 16-200-695, the following shall apply to WAC 16-200-7401 through 16-200-7407.

(1) "Adverse effect(s)" means that the effects resulting from violations of chapter 15.54 RCW or the rules adopted under it actually causes, or creates the possibility of damage or injury to humans, animals, plants, property or the environment, or causes or creates the possibility of a threat to public health.

(2) "Level of violation" means that the alleged violation is a first, second, third, fourth, or more violation(s).

(a) First violation. This means the alleged violator has committed no prior violation within three years of committing the current alleged violation.

(b) Second violation. This means the alleged violator committed one prior violation within three years of committing the current alleged violation.

(c) Third violation. This means the alleged violator committed two prior violations within three years of committing the current alleged violation.

(d) Fourth violation. This means the alleged violator committed three or more prior violations within three years of committing the current alleged violation.

(e) For purposes of calculating the level of violation, prior violations will be measured from the date that a final action was taken by the department and not from the date that the violation(s) occurred.

(3) "Not probable" means that the alleged violator's conduct more likely than not would not have an adverse effect.

(4) "Probable" means that the alleged violator's conduct more likely than not would have an adverse effect.

(5) "Violation" means commission of an act or acts prohibited by chapter 15.54 RCW, and/or rules adopted under it.

(6) "Civil penalty" means a monetary penalty administratively issued by a regulatory agency for noncompliance with state or federal law, or rules. The term does not include any criminal penalty, damage assessment, wages, premiums, taxes owed, interest or late fees on any existing obligation.

(7) "Notice of correction" means a document issued by the department that describes a condition or conduct that is not in compliance with chapter 15.54 RCW, or the rules adopted under it and is not subject to civil penalties as provided for in RCW 43.05.110. A notice of correction is not a formal enforcement action, is not subject to appeal and is a public record.

(8) "Notice of intent" means a document issued by the department that alleges specific violations of chapter 15.54 RCW, or any rules adopted under it. A notice of intent is a formal enforcement document issued with the intent to assess civil penalties to the alleged violator and/or to deny or cancel a license issued under the authority of chapter 15.54 RCW.

[Statutory Authority: Chapters 15.54, 34.05 RCW. 03-02-100, § 16-200-7402, filed 1/2/03, effective 2/2/03.]

WAC 16-200-7403 Application of RCW 43.05.100 and 43.05.110—Issuance of a civil penalty without first issuing a notice of correction. (1) Pursuant to RCW 43.05.-100, a notice of correction may be issued by the department when they become aware of conditions and/or conduct that are not in compliance with the applicable laws and rules enforced by the department. The issuance of a notice of correction by the department shall not constitute a previous violation for purposes of WAC 16-200-7402(2), but may, at the discretion of the department, be considered as an aggravating factor for the purposes of WAC 16-200-7404(2).

(2) Prior to issuing a civil penalty for a violation of chapter 15.54 RCW and/or the rules adopted under it, the department shall comply with the requirements of RCW 43.05.110. RCW 43.05.110 allows the department of agriculture to issue a civil penalty provided for by law without first issuing a notice of correction if:

(a) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given a previous notice of the same or similar type of violation of the same statute or rule; or

(b) Compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; or

(c) The violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars; or

(d) The violation was committed by a business that employed fifty or more employees on at least one day in each of the preceding twelve months.

[Statutory Authority: Chapters 15.54, 34.05 RCW. 03-02-100, § 16-200-7403, filed 1/2/03, effective 2/2/03.]

WAC 16-200-7404 Calculation of a civil penalty. (1) In the disposition of administrative cases, the department shall use the penalty assignment schedules listed in WAC 16-200-7407 to determine the appropriate penalty. The department shall calculate the appropriate penalty based on the level of violation and the adverse effect(s) or potential adverse effects at the time of the incident(s) giving rise to the violation. The median penalty shall be assessed unless an adjustment is warranted due to aggravating or mitigating factors. The median penalty may be adjusted to a level greater than the maximum penalty listed for the violation in the penalty assignment schedule table, but shall not exceed seven thousand five hundred dollars per violation. The median penalty may be adjusted to a lesser amount due to mitigating factors, but not less than the minimum penalty listed for the violation.

(2) Adjustment of median penalty.

(a) The department reserves the right to increase the civil penalty when certain aggravating factors are present. Such aggravating factors include, but are not limited to:

(i) Situations where the civil penalty assessed is not substantially equivalent to the violator's economic benefit derived from the violation;

(ii) The number of separate alleged violations contained within a single notice of intent;

(iii) The high magnitude of the harm, or potential harm, including quantity and/or degree, to humans, animals, plants, property or the environment caused by the violation(s);

(iv) The similarity of the current alleged violation to previous violations committed within the last three years;

(v) The extent to which the alleged violation is part of a pattern of the same or substantially similar conduct.

(b) The department also reserves the right to decrease the civil penalty when certain mitigating factors are present. Such mitigating factors include, but are not limited to:

(i) Situations involving voluntary disclosure of a violation;

(ii) Situations involving a low magnitude of the harm, or potential harm, including quantity and/or degree, caused by the violation;

(iii) Voluntary taking of remedial measures that will result in increased public protection, or that will result in a decreased likelihood that the violation will be repeated.

(3) The department considers each violation to be a separate and distinct event. When a person has committed multiple violations, the violations are cumulative for purposes of calculating the appropriate civil penalty. The penalties are added together.

(4) Violation(s) committed during the period when a bulk fertilizer distribution license is denied or canceled shall be subject to the maximum civil penalty of seven thousand five hundred dollars and/or cancellation of the bulk fertilizer distribution license for a period of up to five years.

[Statutory Authority: Chapters 15.54, 34.05 RCW. 03-02-100, § 16-200-7404, filed 1/2/03, effective 2/2/03.]

WAC 16-200-7405 Denial or cancellation of a bulk fertilizer distribution license. (1) The department retains the sole discretion to determine when a bulk fertilizer distribution license should be canceled. Cancellation of a license shall be an option for the department in those circumstances where:

(a) The penalty schedule allows for cancellation; and/or

(b) One or more aggravating factors are present.

(2) In circumstances where the department determines cancellation to be appropriate, the period of cancellation shall be determined at the discretion of the department, but in no instance shall exceed five years.

(3) The department may deny an applicant a license when the applicant has committed a violation(s) of chapter 15.54 RCW and/or the rules adopted under that chapter. The duration of denial shall be determined based upon the penalty provisions of this chapter. In circumstances where the department determines denial to be appropriate, the period of denial shall not exceed five years.

(4) Nothing shall prevent the department from denying an applicant a license when the applicant has an outstanding civil penalty owed to the department from a previous violation(s).

[Statutory Authority: Chapters 15.54, 34.05 RCW. 03-02-100, § 16-200-7405, filed 1/2/03, effective 2/2/03.]

WAC 16-200-7406 Other dispositions of alleged violations. Nothing herein shall prevent the department from:

(1) Choosing not to pursue a civil penalty or bulk fertilizer distribution license denial or cancellation.

(2) Issuing a notice of correction in lieu of pursuing a civil penalty, or bulk fertilizer distribution license denial or cancellation.

(3) Negotiating settlement(s) of cases on such terms and for such reasons as it deems appropriate. Prior violation(s) covered by a prior settlement agreement may be used by the department for the purpose of determining the appropriate penalty for the current alleged violation(s) if not prohibited by the agreement.

(4) Referring violations or alleged violations to any federal, state or county authority with jurisdiction over the activities in question.

[Statutory Authority: Chapters 15.54, 34.05 RCW. 03-02-100, § 16-200-7406, filed 1/2/03, effective 2/2/03.]

WAC 16-200-7407 Penalty assignment schedule. This assignment schedule shall be used for violations of chapter 15.54 RCW and rules adopted under it.

Level of Violation	Adverse Effects Not Probable			Adverse Effects Probable		
	Minimum	Median	Maximum	Minimum	Median	Maximum
First	$400	$600	$1000	$700	$900	$1100
Second	$700	$1000	$2000	$1200	$2600	$4000 and/or license denial or cancellation
Third	$1400	$2000	$4000	$1600 and/or license denial or cancellation	$4800 and/or license denial or cancellation	$7500 and/or license denial or cancellation
Fourth or more	$1800 and/or license denial or cancellation	$4000 and/or license denial or cancellation	$6000 and/or license denial or cancellation	$2000 and/or license denial or cancellation	$7500 and/or license denial or cancellation	$7500 and license denial or cancellation

[Statutory Authority: Chapters 15.54, 34.05 RCW. 03-02-100, § 16-200-7407, filed 1/2/03, effective 2/2/03.]

WAC 16-200-750 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-755 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-760 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-770 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-790 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-795 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-805 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-815 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-820 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-830 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-840 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-860 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-865 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-885 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-887 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-890 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-900 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-910 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-920 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-930 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-940 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-200-950 Repealed. See Disposition Table at beginning of this chapter.

Chapter 16-201 WAC

FERTILIZER BULK STORAGE AND OPERATIONAL AREA CONTAINMENT RULES

WAC

16-201-010 Definitions.
16-201-180 Primary containment of liquid bulk fertilizers—Temporary field storage.

WAC 16-201-010 Definitions. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires.

(1) **"Approved air gap"** means a physical separation between the free-flowing end of a water supply pipeline and the overflow rim of an open or nonpressurized receiving vessel. To be an approved air gap, the separation must be at least:

(a) Twice the diameter of the supply piping measured vertically from the overflow rim of the receiving vessel, and in no case be less than one inch, when unaffected by vertical surfaces (sidewalls): or

(b) Three times the diameter of the supply piping, if the horizontal distance between the supply pipe and a vertical surface (sidewall) is less than or equal to three times the diameter of the supply pipe, or if the horizontal distance between the supply pipe and intersecting vertical surfaces (sidewalls) is less than or equal to four times the diameter of the supply pipe and in no case less than one and one-half inches.

(2) **"Approved reduced pressure principle backflow prevention assembly (RPBA)"** means an RPBA of a make, model and size that is approved by the Washington state department of health.

(3) **"Appurtenances"** means all valves, pumps, fittings, pipes, hoses and metering devices which are connected to a storage container, or which are used to transfer a material into or out of such storage container.

(4) **"Bulk fertilizer"** means commercial fertilizer distributed in a nonpackage form such as, but not limited to, tote bags, tanks, trailers, spreader trucks, and railcars.

(5) **"Certified engineer"** means a licensed professional engineer, registered in the state of Washington in the discipline in which he/she is practicing.

(6) **"Commercial fertilizer"** means any substance containing one or more recognized plant nutrients and which is used for its plant nutrient content and/or which is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures. It shall not include unmanipulated animal and vegetable manures and other products exempted by the department by rule: Provided, That for the purpose of this chapter calcium carbonate (lime) and anhydrous ammonia are exempt: Provided further, That this rule does not apply to materials (including but not limited to compost, biosolids, or municipal sewage sludge), or to products derived therefrom, which are regulated pursuant to the provisions of chapter 70.95 or 70.95J RCW, or rules adopted thereunder.

(7) **"Department"** means the Washington state department of agriculture.

(8) **"Discharge"** means a spill, leak, or release, accidental or otherwise, from a storage container, container or appurtenance. It does not include a fully contained transfer of fertilizer made pursuant to sale, storage, distribution or use.

(9) **"Dry fertilizer"** means fertilizer in solid form.

(10) **"Liquid fertilizer"** means fertilizer in liquid form, and includes solutions, emulsions, suspensions and slurries. Liquid fertilizer does not include anhydrous ammonia.

(11) **"Not technically feasible"** means compliance is not physically or technically possible or feasible, and/or compliance cannot be achieved without compromising operational safety, and/or significantly compromising operational access. Monetary cost of compliance alone, shall not be sufficient for the department to determine that compliance is not technically feasible.

(12) **"Operational area"** means an area or areas at a fertilizer bulk permanent storage facility where fertilizers are transferred, loaded, unloaded, mixed, repackaged, refilled or where fertilizers are cleaned, washed or rinsed from containers or application, handling, storage or transportation equipment.

(13) **"Operational area containment"** means any structure or system designed and constructed to intercept and contain discharges, including storage container or equipment wash water, rinsates, and rainwater from the operational area(s) of fertilizer bulk storage facilities.

(14) **"Permanent storage facility"** means a location at which undivided quantities of liquid bulk fertilizer in excess of five hundred U.S. gallons or undivided quantities of dry bulk fertilizer in excess of fifty thousand pounds is held in storage: Provided, That temporary field storage is not considered a permanent storage facility.

(15) **"Primary containment"** means the storage of liquid or dry bulk fertilizer in storage containers at a permanent storage facility.

(16) **"Rinsate"** means the liquid generated from the rinsing of any equipment or container that has come in direct contact with any fertilizer, including: Recovered sedimentation, washwater, contaminated precipitation, or other contaminated debris.

(17) **"Secondary containment"** means a device or structure designed, constructed, and maintained to hold or confine a discharge of a liquid fertilizer from a permanent storage facility.

(18) **"Storage container"** means a container, including a railcar, nurse tank or other mobile container, that is used or intended for the storage of bulk liquid or dry fertilizer. It does not include a mobile container at a storage facility for less than fifteen days if this storage is incidental to the loading or unloading of a storage container at the bulk fertilizer storage facility. Storage container does not include underground storage containers or surface impoundments such as lined ponds or pits.

(19) **"Substantially similar protection"** means alternative containment and management practices that prevent or control releases to the environment to the same or similar degree as the protections afforded by full compliance with this chapter.

(20) **"Temporary field storage"** means a storage container with the capacity to store no more than ten thousand gallons of liquid bulk fertilizer and that is used for the temporary storage of liquid bulk fertilizer during application. Liquid bulk fertilizer application tanks directly attached to an apparatus for the purpose of fertigation are exempt from this chapter.

(21) **"Washwater"** means the liquid generated from the rinsing of the exterior of any equipment, containers or secondary containment or operational areas which have or may have come in direct contact with any fertilizer.

[Statutory Authority: Chapters 15.54 and 34.05 RCW. 03-23-130, § 16-201-010, filed 11/19/03, effective 12/20/03. Statutory Authority: RCW 15.54.800. 00-23-075, § 16-201-010, filed 11/17/00, effective 12/18/00. Statutory Authority: RCW 15.54.800 and 15.58.040. 93-22-093 (Order 5018), § 16-201-010, filed 11/2/93, effective 3/1/94.]

WAC 16-201-180 Primary containment of liquid bulk fertilizers—Temporary field storage. (1) Temporary field storage shall comply with the following sections: WAC 16-201-100, 16-201-110, 16-201-120, 16-201-140, 16-201-150, and 16-201-170.

(2) Temporary field storage shall be inspected for leakage and soundness daily when in use.

(3) Valves on temporary field storage shall be closed and locked or otherwise secured when left unattended.

(4) The physical location and identifying number of all temporary field storage shall be provided to the department upon request.

(5) Once temporary field storage is set in place, it may remain at that location without secondary containment for a maximum of twenty-one consecutive days commencing from the date of placement in any six-month period, after which it must be removed. Upon written request, the department may issue a permit to extend the time temporary field storage may be in one place during any six-month period due to weather related conditions. No advisory group review, pursuant to WAC 16-201-280(2) is available for this type of permit.

[Statutory Authority: Chapters 15.54 and 34.05 RCW. 03-23-130, § 16-201-180, filed 11/19/03, effective 12/20/03. Statutory Authority: RCW 15.54.800. 00-23-075, § 16-201-180, filed 11/17/00, effective 12/18/00. Statutory Authority: RCW 15.54.800 and 15.58.040. 93-22-093 (Order 5018), § 16-201-180, filed 11/2/93, effective 3/1/94.]

Chapter 16-219 WAC
RESTRICTED USE PESTICIDES

WAC

16-219-016 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-219-016 Restricted use pesticides—Mevinphos (Phosdrin). [Statutory Authority: Chapters 17.21 and 15.58 RCW. 95-01-076 (Order 5062), § 16-219-016, filed 12/16/94, effective 1/16/95.] Repealed by 03-14-044, filed 6/24/03, effective 7/25/03. Statutory Authority: Chapters 15.58, 17.21, and 34.05 RCW.

WAC 16-219-016 Repealed. See Disposition Table at beginning of this chapter.

Chapter 16-228 WAC
GENERAL PESTICIDE RULES

WAC

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WAC 16-228-1010 What are the definitions that apply to this chapter? The definitions in this section apply throughout this chapter, unless the context requires otherwise:

(1) "Agricultural commodity" means any plant, or part of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by people or animals.

(2) "Authorized agent" is any individual who is authorized to act on behalf of a certified applicator for the purpose of purchasing pesticides.

(3) "Bait box" for rodenticides is a box constructed of durable metal, wood, plastic, or other treated material. It shall be designed to hold rodent bait securely, allow rodents to enter and leave, and prevent unauthorized individuals and nonpest domestic animals from gaining access to the bait. Baits placed in industrial, commercial or other areas that are accessible to the public shall be contained in tamper resistant bait boxes. Fragile materials are unacceptable.

(4) "Bait station" may be any location where baits are placed to allow target pests to gain access to the bait.

(5) "Blossoming plants" means:

(a) When there are five or more open blooms per square yard on average in a given field; or

(b) When there are one or more open blooms per tree or vine in an orchard or vineyard; or

(c) When there are five or more open weed blooms per square yard on average for the area being measured for groundcover in orchards or vineyards, fence lines, ditch banks, or field, vineyard or orchard edges. This definition shall not apply to plants that are not attractive to bees (e.g., lentils, hops, peas (Pisum sp.), pears (second bloom) and potatoes). For the purposes of this definition, "bloom" means a flower head, raceme or spike with one or more open flowers.

(6) "Bulk fertilizer" is a commercial fertilizer, agricultural mineral, or lime, distributed in nonpackaged form.

(7) "Certified applicator" means any individual who is licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, or certified private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators only.

(8) "Chemigation" means the application of any substance or combination of substances intended as a pesticide, plant or crop protectant or a system maintenance compound applied with irrigation water.

(9) A "complainant" is defined as a person who has requested an inspection of an area in which a pesticide violation is believed to have occurred.

(10) "Complete wood destroying organism inspection" means inspection for the purpose of determining evidence of infestation, damage, or conducive conditions as part of the transfer, exchange, or refinancing of any structure in Washington state. Complete wood destroying organism inspections must also include any wood destroying organism inspection that is conducted as the result of telephone solicitation by an inspector, pest control, or other business, even if the inspection would fall within the definition of a specific wood destroying organism inspection.

(11) "Controlled disposal site" means any place where solid or liquid waste is disposed of: Provided that the area has been designated as a disposal site for waste materials by the appropriate jurisdictional agency. The site must be fenced, barricaded or otherwise enclosed or attended by some person in charge to control the access of domestic animals, pets, and unauthorized persons.

(12) "Department" means the Washington state department of agriculture.

(13) "Diluent" means a material, liquid or solid, serving to dilute the pesticide product to the application rate for adequate coverage (such as water).

(14) "Director" means the director of the department or a duly authorized representative.

(15) "Dry pesticide" is any granular, pelleted, dust or wettable powder pesticide.

(16) "EPA" means the United States Environmental Protection Agency.

(17) "EPA restricted use pesticide" means any pesticide classified for restricted use by the administrator, EPA.

(18) "Fertilizer" as included in this chapter means any liquid or dry mixed fertilizer, fertilizer material, specialty fertilizer, agricultural mineral, or lime.

(19) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended (61 stat. 163, 7 U.S.C. Sec. 136 et seq.).

(20) "Floor level" means the floor upon which people normally walk—not shelves, ledges, overhead beams, tops of stacked materials, surfaces of equipment, or similar places.

(21) "Food service establishment" means any fixed or mobile restaurant; coffee shop; cafeteria; short order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial-feeding establishment; retail grocery; retail food market; retail meat market; retail bakery; private, public, or nonprofit organization routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

(22) "Fumigant" means any substance or combination of substances that produce gas, fumes, vapors, or smoke, and is used to kill pests in some kind of enclosure.

(23) "Highly toxic pesticide" for the purpose of this chapter, means any pesticide that conforms to the criteria in 40 C.F.R. Sec. 156.10 for toxicity Category I due to oral, inhalation or dermal toxicity.

(24) "Landscape application" means an application by a certified applicator of any EPA registered pesticide to any exterior landscape plants found around residential property, commercial properties such as apartments or shopping centers, parks, golf courses, schools including nursery schools and licensed day cares, or cemeteries or similar areas. This definition shall not apply to: (a) Applications made by certified private applicators; (b) mosquito abatement, gypsy moth

eradication, or similar wide-area pest control programs sponsored by governmental entities; and (c) commercial pesticide applicators making structural applications.

(25) "Person" is defined as any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(26) A "person aggrieved" by a violation is defined as a person who has reasonable grounds to believe that he or she has been subjected to harm or an unreasonable risk by such a violation.

(27) "Pollen shedding corn" means that stage of growth when ten percent or more of the corn plants in any one quarter portion of the field are showing spike anthers.

(28) "Positive identification" means a photo identification document issued by a U.S. government agency or affiliated jurisdiction (states, tribes, territories). Acceptable photo identification documents are: A driver's license, a passport, a military ID card or an immigration green card. Exception: Nonphoto identification documents may be allowed for religious groups that prohibit members from having their picture taken. In this case, two forms of identification are required, one of which must be a government issued document with a signature (e.g., Social Security card). Other nonphoto identification must identify the holder by name and address (e.g., utility bill).

(29) "Private applicator" means a certified applicator who uses or is in direct supervision of the use of any pesticide classified by the EPA or the director as a restricted use pesticide for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the private applicator or the applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

(30) "Private-commercial applicator" means a certified applicator who uses or supervises the use of any pesticide classified by the EPA or the director as a restricted use pesticide for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

(31) "Specific wood destroying organism inspection" means an inspection of a structure for purposes of identifying or verifying evidence of an infestation of wood destroying organisms prior to pest management activities.

(32) "State restricted use pesticide" means any pesticide determined to be a restricted use pesticide by the director under the authority of chapters 17.21 and 15.58 RCW.

(33) "Structural pest inspector" means any individual who performs the service of conducting a complete wood destroying organism inspection or a specific wood destroying organism inspection.

(34) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

(35) "Waste pesticide" is any pesticide formulation which cannot be used according to label directions in Washington state because of cancellation or suspension of its federal or state registration, or deterioration of the product or its label, and any pesticide formulation whose active ingredients are not clearly identifiable because of label deterioration or because the pesticide is not stored in its original container.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1010, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58, 17.21 RCW. 00-22-073, § 16-228-1010, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1010, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1020 What are the rights of complainants? If an inspection is conducted by the department of an area in which a pesticide violation is believed to have occurred, a complainant shall:

(1) Be promptly provided by the department, with the department's decision, as set forth in the "notice of intent to assess civil penalty and/or deny, suspend, or revoke a license," or in any document issuing a warning or determination of no action. The department will endeavor to provide notice concurrently with the department's service of the document on the alleged violator.

(2) Be entitled, upon written request to the department, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available pursuant to chapter 17.21 RCW: Provided that in any adjudicative proceeding under chapter 34.05 RCW the identity of complainant shall be disclosed to the alleged violator upon written request of the alleged violator.

(3) Be otherwise entitled to those rights of persons aggrieved as set forth in WAC 16-228-1030 except that the complainant shall be provided, automatically without request, a copy of the final department decision.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1020, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1020, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1030 What are the rights of person aggrieved? A person aggrieved shall:

(1) Be entitled to be notified promptly of any final action taken by the department concerning an investigation under chapter 17.21 RCW. The department will provide notice at the same time as a service of notice on the violator: Provided that such person has made timely written application to the department requesting such notice. Written application to the department requesting such notice shall be received no later than the date of service of a final order.

(2) Within thirteen calendar days of the date of mailing of a final order to a person aggrieved, the person aggrieved may request in writing that the director reconsider the matter, shall specify in writing why they believe the penalty decision is inappropriate, and the department will serve the request on the violator.

(3) Following the request in writing, the director will reconsider the entire matter including any written statement submitted by any party, and may adjust the penalty decision set forth in the final order if the director finds that the penalty was inappropriate.

(4) If such person is aggrieved by the director's order on reconsiderations, within twenty calendar days of service of the order he or she may request in writing an adjudicative proceeding under chapter 34.05 RCW, shall specify in writing why he or she believes the penalty decision is inappropri-

ate, and the department shall serve the request on the alleged violator. The subject of such proceeding shall be limited to the appropriateness of the penalty decision of the director on reconsideration based on a review of the record as supplemented by any new evidence received by the presiding officer. The alleged violator shall be given notice and an opportunity to participate in the proceeding by the department. The proceeding shall be heard by a presiding officer who has not heard the adjudicative proceeding on the merits against the alleged violator. Chapter 34.05 RCW and chapter 16-08 WAC shall govern the conduct of such proceeding and any review.

(5) Upon the filing of any request for proceeding pursuant to subsection (2) of this section, any final order of the director shall be automatically stayed pending resolution of such request and expiration of any time period for pursuing additional relief. The director shall provide written notice to the alleged violator of any such resolution, thereby reinstituting the rights of the alleged violator to seek further relief.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1030, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1030, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1040 How soon must the department respond to a complaint? Upon receipt of a verified report of loss as set forth in RCW 17.21.190 or alleged violation of chapters 17.21 or 15.58 RCW or the accompanying rules, the department shall initiate an investigation. Investigation of a complaint concerning immediate acute pesticide exposure to humans or animals shall be initiated immediately. Other complaint investigations shall be initiated no later than forty-eight hours after receipt of the verified report of loss.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1040, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58, 17.21 RCW. 00-22-073, § 16-228-1040, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1040, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1100 What is the basis for penalties? For the purpose of fair, uniform determination of penalty as set forth in WAC 16-228-1110 through 16-228-1150, the director hereby declares:

(1) Regulatory action is necessary to deter violations of the pesticide laws and rules, and to educate persons about the consequences of such violation(s); and

(2) Any regulatory action taken by the department against any person who violates the provisions of chapter 17.21 RCW, chapter 15.58 RCW, and/or rules adopted thereunder shall be commensurate with the seriousness of the violation under the circumstances; and

(3) Each person shall be treated fairly in accordance with the rules set forth in this chapter.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1100, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1100, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1110 What are the definitions specific to penalties? In addition to the definitions set forth in RCW 17.21.020, 15.58.030, and WAC 16-228-1010, the following shall apply to WAC 16-228-1100 through 16-228-1150:

(1) "Adverse effect(s)" means that the alleged activity actually causes, or creates the possibility of damage, injury or public health threat, to humans, animals, plants, property or the environment. In those situations involving a wood destroying organism inspection, adverse effects exist when the inspection has been performed in a faulty, careless or negligent manner.

(2) "Level of violation" means that the alleged violation is a first, second, third, fourth, or more violation(s).

(a) First violation. This means the alleged violator has committed no prior incident(s) which resulted in a violation or violations within three years of committing the current alleged violation.

(b) Second violation. This means the alleged violator committed one prior incident which resulted in a violation or violations within three years of committing the current alleged violation.

(c) Third violation. This means the alleged violator committed two prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(d) Fourth violation. This means the alleged violator committed three prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(e) For purposes of calculating the level of violation, prior incidents will be measured from the date that a final order or stipulated order resolved the prior violation(s), and not from the date that the incident(s) occurred.

(3) "Not probable" means that the alleged violator's conduct more likely than not would not have an adverse effect.

(4) "Probable" means that the alleged violator's conduct more likely than not would have an adverse effect.

(5) "Violation" means commission of an act or acts prohibited by chapter 17.21 RCW, chapter 15.58 RCW, and/or rules adopted thereunder.

(6) "Civil penalty" means a monetary penalty administratively issued by a regulatory agency for noncompliance with state or federal law, or rules. The term does not include any criminal penalty, damage assessment, wages, premiums, or taxes owed, or interest or late fees on any existing obligation.

(7) "Notice of Correction" means a document issued by the department that describes a condition or conduct that is not in compliance with chapter 15.58 or 17.21 RCW, or the rules adopted under the authority of chapter 15.58 or 17.21 RCW and is not subject to civil penalties as provided for in RCW 43.05.110. A notice of correction is not a formal enforcement action, is not subject to appeal and is a public record.

(8) "Notice of intent" means a document issued by the department that alleges specific violations of chapter 15.58 or 17.21 RCW, or any rules adopted under the authority of those chapters. A notice of intent is a formal enforcement document issued with the intent to assess civil penalties to the alleged violator and/or to suspend, deny or revoke the alleged violator's pesticide license.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1110, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 17.21 and 15.58 RCW. 01-01-058, § 16-228-1110, filed 12/12/00, effective

1/12/01. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1110, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1115 When can the department issue a civil penalty without first issuing a notice of correction? (1) Pursuant to RCW 43.05.100 a notice of correction may be issued by the department when they become aware of conditions and/or conduct that are not in compliance with the applicable laws and rules enforced by the department. The issuance of a notice of correction by the department shall not constitute a previous violation for purposes of WAC 16-228-1110(2), but may, at the discretion of the department, be considered as an aggravating factor for the purposes of WAC 16-228-1120(2).

(2) Prior to issuing a civil penalty for a violation of chapter 15.58 or 17.21 RCW, and the rules adopted under the authority of chapter 15.58 or 17.21 RCW the department shall comply with the requirements of RCW 43.05.110. RCW 43.05.110 provides that the department of agriculture may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars; or (4) the violation was committed by a business that employed fifty or more employees on at least one day in each of the preceding twelve months.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1115, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 17.21 and 15.58 RCW. 01-01-058, § 16-228-1115, filed 12/12/00, effective 1/12/01.]

WAC 16-228-1120 How are penalties calculated? (1) Median penalty selection. In the disposition of administrative cases, the department shall use the penalty assignment schedule listed in WAC 16-228-1130 to determine appropriate penalties. The department shall calculate the appropriate penalty based on the level of violation and the adverse effect(s) or potential adverse effects at the time of the incident(s) giving rise to the violation. The median penalty shall be assessed unless a proportionate adjustment is warranted and/or there are aggravating or mitigating factors present. The median penalty as listed in WAC 16-228-1130 may be proportionately adjusted and/or aggravated to a level more than the maximum penalty listed for the violation in the penalty assignment schedule table. The median penalty under the penalty assignment schedule may not be proportionately adjusted and/or mitigated to a level less than the minimum penalty listed for the violation.

(2) Proportionate adjustment of median penalty.

(a) The department reserves the right to proportionately increase the civil penalty and proportionately decrease the licensing action under certain circumstances. Such circumstances include situations where licensing action(s) as a deterrent are ineffective and include, but are not limited to:

(i) Violations by persons who are not licensed; and

(ii) Situations where the civil penalty assessed is not substantially equivalent to the violator's economic benefit derived from the violation.

(b) The department also reserves the right to proportionately decrease the civil penalty and increase the licensing action in circumstances that demonstrate the ineffectiveness of a civil penalty as a deterrent. Nothing shall prevent the department from proportionally adjusting a licensing action to a level greater than the maximum licensing action listed in the penalty assignment schedule.

(3) Aggravating factors. The department may consider circumstances enhancing the penalty based on the seriousness of the violation. Aggravating factors include, but are not limited to, the following:

(a) The number of separate alleged violations contained within a single notice of intent.

(b) The high magnitude of the harm, or potential harm, including quantity and/or degree, to humans, animals, plants, property or the environment caused by the violation(s).

(c) The similarity of the current alleged violation to previous violations committed within the last three years.

(d) The extent to which the alleged violation is part of a pattern of the same or substantially similar conduct.

(4) When the department determines that one or more aggravating factors are present, the department may assess the maximum penalty as listed within the level of violation or may, in its discretion, increase the penalty to a level greater than the maximum penalty, including but not limited to revocation of the license.

(5) Mitigating factors. The department may consider circumstances reducing the penalty based upon the seriousness of the violation. Mitigating factors include but are not limited to, the following:

(a) Voluntary disclosure of a violation.

(b) The low magnitude of the harm, or potential harm, including quantity and/or degree, caused by the violation.

(c) Voluntary taking of remedial measures that will result in increased public protection, or that will result in a decreased likelihood that the violation will be repeated.

(6) When the department determines that one or more mitigating factors are present, the department may assess the minimum penalty for the violation from the penalty schedule.

(7) The department considers each violation to be a separate and distinct event. When a person has committed multiple violations, the violations are cumulative for purposes of calculating the appropriate penalty. Penalties are added together.

(8) Violation(s) committed during the period when an individual's license is suspended or revoked shall be subject to the maximum civil penalty of seven thousand five hundred dollars and/or revocation of the license for a period of up to five years. Violation(s) committed by unlicensed individuals are subject to the provisions of this chapter, including the penalty provision.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1120, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 17.21 and 15.58 RCW. 01-01-058, § 16-228-1120, filed 12/12/00, effective

1/12/01. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1120, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1125 When can the department revoke or deny a license? (1) The department retains the sole discretion to determine when an individual license should be revoked rather than suspended. Revocation of a license shall be an option for the department in those circumstances where:

(a) The penalty schedule allows for revocation;

(b) One or more aggravating factors are present; and/or

(c) The duration of the licensure action exceeds six months.

In circumstances where the department determines revocation to be appropriate, the period of revocation shall be determined at the discretion of the department, but in no instance shall the revocation exceed five years.

(2) The department may deny an applicant a license when the applicant has committed a violation(s) of chapters 15.58 and 17.21 RCW and/or the rules adopted under those chapters. The duration of denial shall be determined based upon the penalty provisions of this chapter. In circumstances where the department determines denial to be appropriate, the period of denial shall not exceed five years.

(3) Nothing shall prevent the department from denying an applicant a license when the applicant has an outstanding civil penalty owed to the department from a previous violation(s).

(4) The department may, at its discretion, suspend a license without also seeking a civil penalty. Such circumstances include, but are not limited to, those incidents where a civil penalty is not available as an appropriate penalty pursuant to RCW 43.05.110. The appropriate period of suspension shall be determined from the penalty schedule.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1125, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 17.21 and 15.58 RCW. 01-01-058, § 16-228-1125, filed 12/12/00, effective 1/12/01.]

WAC 16-228-1130 What is the penalty assignment schedule? This assignment schedule shall be used for violations of chapter 17.21 or 15.58 RCW or chapter 16-228 WAC. (See WAC 16-228-1150 for other dispositions of alleged violations, including Notice of Corrections.)

LEVEL OF VIOLATION	ADVERSE EFFECTS NOT PROBABLE			ADVERSE EFFECTS PROBABLE		
	MINIMUM	MEDIAN	MAXIMUM	MINIMUM	MEDIAN	MAXIMUM
FIRST	$200 and or 2 days license suspension	$300 and or 3 days license suspension	$500 and or 6 days license suspension	$350 and or 5 days license suspension	$450 and or 7 days license suspension	$550 and or 9 days license suspension
SECOND	$350 and or 3 days license suspension	$500 and or 6 days license suspension	$1000 and or 9 days license suspension	$600 and 10 days license suspension denial or revocation	$1300 and 20 days license suspension denial or revocation	$2000 and 30 days license suspension denial or revocation
THIRD	$700 and or 4 days license suspension	$1000 and or 9 days license suspension	$2000 and or 12 days license suspension	$800 and 30 days license suspension denial or revocation	$2400 and 40 days license suspension denial or revocation	$4000 and 50 days license suspension denial or revocation
FOURTH OR MORE	$900 and or 5 days license suspension denial or revocation	$2000 and or 12 days license suspension denial or revocation	$3000 and or 15 days license suspension denial or revocation	$1000 and 50 days license suspension denial or revocation	$4250 and 70 days license suspension denial or revocation	$7500 and 90 days license suspension denial or revocation

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1130, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 17.21 and 15.58 RCW. 01-01-058, § 16-228-1130, filed 12/12/00, effective 1/12/01. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1130, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1150 What are the other dispositions of alleged violations that the department may choose? Nothing herein shall prevent the department from:

(1) Choosing not to pursue a civil penalty, license suspension or license revocation.

(2) Issuing a notice of correction in lieu of pursuing a civil penalty, license suspension or license revocation.

(3) Negotiating settlement(s) of cases on such terms and for such reasons as it deems appropriate. Prior violation(s) covered by a prior settlement agreement may be used by the department for the purpose of determining the appropriate penalty for the current alleged violation(s) if not prohibited by the agreement.

(4) Referring violations or alleged violations, to any federal, state or county authority with jurisdiction over the activities in question, including but not limited to the Environmental Protection Agency (EPA) and the Federal Aviation Administration (FAA).

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1150, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 17.21 and 15.58 RCW. 01-01-058, § 16-228-1150, filed 12/12/00, effective 1/12/01. Statutory Authority: Chapters 15.58, 17.21 RCW. 00-22-073, § 16-228-1150, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1150, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1200 What are the restrictions on pesticide distribution, transportation, application, storage and disposal? (1) No person shall handle, transport, store, display, apply, dispose of or distribute pesticides in such a manner as to endanger humans and their environment or to endanger food, feed, or any other product that may be transported, stored, displayed, or distributed with such pesticides. Toxicities of pesticides shall be considered in distribution, storage, handling, and merchandising practices.

(2) Highly toxic pesticides shall not be transported in the same compartment of the vehicle or other equipment together with clothes, food, feed, or any other material intended for consumption by humans or animals. Any vehicle or other equipment shall be inspected by the owner or authorized agent for contamination before reuse. In instances where leakage or spillage has occurred, the shipper of the pesticides shall be immediately notified for instructions concerning the best method to be employed for the removal of the contami-

nation. Vehicles or other equipment which have been contaminated shall not be returned to service until the contamination has been removed.

(3) Pesticide containers shall be secured during transit by use of side or end racks, bracing, chocks, tiedowns, or other means to prevent their sliding, falling, tipping, rolling, or falling off the vehicle with normal vehicle acceleration, deceleration, or change in direction.

(4) Valves shall be tightly closed and manhole covers shall be secured on cargo, portable and permanent tanks used for transporting, storage and application of pesticides, whether tanks are full or empty.

(5) Portable tanks shall be secured to prevent their sliding, falling, tipping, or rolling with normal vehicle acceleration, deceleration, or change in direction. Ends, sidewalls, or doors of van bodies shall not be relied upon for securement.

(6) Pesticides shall not be delivered to a pesticide consignee unless the consignee or authorized agent is present to accept delivery of the pesticides and signs a delivery slip or the pesticides are secured in a proper storage.

(7) Pesticides shall not be stored and/or displayed over or adjacent to meat or vegetable cases, other human foods, animal feeds, or drugs, or in any manner that may result in contamination of food, feed, or clothing. Pesticides intended for sale or distribution shall only be stored and displayed within an enclosed area of a building or fence and shall not be displayed on sidewalks.

(8) Pesticide dealers shall not sell, offer for sale, or hold for sale highly toxic pesticides in the same department where food for human consumption is displayed or sold. The same "checkstand" or food packaging area may not be used for the distribution of highly toxic pesticides and food for human consumption.

(9) All pesticide incidents involving undesirable impacts on human health shall be reported to the Washington state department of health by the department.

(10) Pesticides in leaking, broken, corroded, or otherwise damaged containers shall not be displayed, offered for sale, or transported and shall be handled or disposed of in a manner that would not contaminate the environment or cause injury to humans and/or animals. Pesticides with obscured, illegible or damaged labels shall not be displayed or offered for sale.

(11) No person shall distribute or sell any pesticide unless it is in the registrant's or the manufacturer's unbroken, immediate container and the registered pesticide label is affixed to the container.

(12) A user of a pesticide may distribute a properly labelled pesticide to another user who is legally entitled to use that pesticide without obtaining a pesticide dealer's license if the exclusive purpose of distributing the pesticide is keeping it from becoming a hazardous waste as defined in chapter 70.105 RCW.

(13) The distribution and use of DDT and DDD shall be prohibited in this state except for uses allowed by the Environmental Protection Agency or the Center for Disease Control of the United States Department of Health and Human Services.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1200, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58, 17.21 RCW. 00-22-073, § 16-228-1200, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1200, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1220 What are the restrictions applying to any person holding, handling, using, or disposing of pesticides and their containers? (1) Any person handling, applying, or disposing of pesticides or pesticide containers shall do so in such a manner to minimize hazard to commercially important pollinating insect species. Due care shall be taken to regulate the timing and technique of pesticide applications to or around blossoming plants and pollen shedding corn. The use or application of microencapsulated methyl parathion, either directly or through drift, shall be prohibited on all blossoming plants and on pollen shedding corn.

(2) No person shall transport, handle, store, load, apply, or dispose of any pesticide, pesticide container or apparatus in such a manner as to pollute water supplies or waterways, or cause damage or injury to land, humans, desirable plants and animals, or wildlife. Provided that a pesticide labeled for aquatic use and used as directed shall not be considered a violation of this subsection: Disposing of pesticides at disposal sites approved by the appropriate agency complies with the requirements of this subsection. Toxicity, volatility, and mobility of pesticides shall be considered in complying with this subsection.

(3) No person shall pollute streams, lakes, and other water supplies in pesticide loading, mixing, and application. Adequate, functioning devices and procedures to prevent backsiphoning shall be used.

(4) No pesticides shall be applied by aircraft or airblast sprayers to property abutting and adjacent to occupied schools in session, hospitals, nursing homes or other similar establishments under conditions that may result in contamination of these establishments or their premises.

(5) No person shall apply pesticides if weather conditions are such that physical drift or volatilization may cause damage to adjacent land, humans, desirable plants or animals.

(6) Requirements for unattended pesticides and their containers:

(a) Good generally accepted housekeeping practices shall be maintained for all pesticides and their containers.

(b) The provisions of (d) and (e) of this subsection and subsection (7) of this section shall not apply to empty pesticide containers when adequately decontaminated (e.g., a minimum of three successive rinsings); and shall not apply to categories 2, 3, and 4 pesticide formulations labeled for home and garden use only.

(c) For the purposes of (d) and (e) of this subsection and subsection (7) of this section, pesticides and their containers at the loading area shall not be considered unattended during the spraying operation if the operator maintains either visual control or repeatedly returns at closely spaced intervals.

(d) Pesticides labeled with the signal word "danger/poison" and their containers shall be stored in one of the following enclosures which, when unattended, shall be so constructed and locked (except (v) below) to prevent children, unauthorized persons, livestock, or other animals from gaining entry.

(i) Closed vehicle.

(ii) Closed trailer.

(iii) Building or room or fenced area with a fence at least six feet high.

(iv) Foot locker or other container which can be locked.

(v) Unattended trucks or trailers which have solid sideracks and secured tailgate at least six feet above ground, ramp or platform level.

(vi) Bulk storage containers fifty gallons and larger with tight screw-type bungs and/or secured or locked valves.

(e) Pesticides labeled with the signal word "danger" when not accompanied by the signal word "poison," pesticides labeled with the signal word "warning" and pesticides labeled with the signal word "caution" and their containers shall be stored in secured storage out of the reach of children in one of the enclosures listed in (d) of this subsection: Provided that metal containers, twenty-eight gallons and larger, with tight screw-type bungs and/or secured or locked valves shall be considered secured storage.

(7) Requirements for posting of storage area for pesticides and their containers labeled with the signal words "danger/poison":

(a) For purposes of this subsection, warning signs shall show the skull and crossbones symbol and the words: "Danger/Poison (or Pesticide or Chemical) Storage Area/Keep Out" in letters large enough to be legible at a distance of thirty feet.

(b) Warning signs shall be posted:

(i) On enclosures specified in subsection (6)(d) of this section, when such enclosures are unattended;

(ii) At each entrance or exit from a storage area and on each exterior wall, so that a sign is visible from any direction;

(iii) If the pesticide storage area is contained in a larger, multipurpose structure, warning signs shall be clearly visible on each exterior wall of the structure within thirty feet of the pesticide storage area and from the main entrance to the larger structure: Provided that posting of the main entrance shall not be required, if a sign is visible from the entrance which clearly identifies the possibility that pesticides may be stored on the premises, (i.e., XYZ Pest Control or XYZ Wood Treatment, Inc.);

(8) No person shall disperse a pesticide or pesticide rinsate from any aircraft while in flight except over the target field and at the customary application height for that crop: Provided that emergency dumping shall not be considered a violation of this section.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1220, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-22-074, § 16-228-1220, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1220, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1225 What are exceptions to label requirements? The term "to use any registered pesticide in a manner inconsistent with its labeling" means to use any registered pesticide in a manner not permitted by the labeling, except that the term shall not include:

(1) Applying a pesticide at any dosage, concentration or frequency less than that specified on the labeling unless the labeling specifically prohibits deviation from the specified dosage, concentration or frequency;

(2) Applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal or site specified on the labeling, unless the department or EPA has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling;

(3) Employing any method of application not prohibited by the labeling unless the labeling specifically states that the product may only be applied only by the methods specified on the labeling, (chemigation applications are prohibited unless the label has chemigation use directions); and

(4) Mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1225, filed 10/28/03, effective 11/28/03.]

WAC 16-228-1231 What are state restricted use pesticides for distribution by licensed pesticide dealers and for use by certified applicators only? (1) Pesticides defined by the following categories or active ingredients are hereby declared state restricted use pesticides and shall be distributed only by licensed pesticide dealers to certified applicators or to their duly authorized agents. The certified applicator must have a valid certification, license or permit to use or purchase the kind and quantity of such pesticide sold or delivered. These pesticides shall be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category.

(a) Any EPA restricted use pesticide.

(b) All formulations, except for low volatile esters, of dicamba and phenoxy hormone-type herbicides (e.g., 2,4-D, MCPA, MCPP), distributed in quantities larger than one gallon in counties located east of the crest of the Cascade Mountains.

(c) Low volatile ester formulations of dicamba and phenoxy hormone-type herbicides (e.g., 2,4-D, MCPA, MCPP) distributed in quantities of one gallon or larger in counties located east of the crest of the Cascade Mountains.

(d) Strychnine and its salts.

(e) Aquatic pesticides. All pesticides formulations labeled for application onto or into water to control pests on or in water except as provided in subsection (2) of this section.

(f) Pesticides containing the following active ingredients and their isomers are hereby declared state restricted use pesticides for the protection of groundwater.

atrazine
bromacil
dcpa
disulfoton
diuron
hexazinone
metolachlor
metribuzin
picloram
prometon
simazine
tebuthiuron

(2) Pesticides which are not classified as EPA restricted use pesticides and which are labeled and intended only for the following uses shall be exempt from the requirements of this section:

(a) Swimming pools

(b) Wholly impounded ornamental pools or fountains

(c) Aquariums

(d) Closed plumbing and sewage systems

(e) Enclosed food processing systems

(f) Air conditioners, humidifiers, and cooling towers

(g) Industrial heat exchange, air washing and similar industrial systems

(h) Disinfectants

(i) Aquatic environments in states other than Washington

(j) Animal pets

(k) Use within wholly enclosed structures (with floors) or fumigation chambers.

Greenhouses are not considered as wholly enclosed structures for the purposes of this section

(l) Home and garden control of mosquito larvae.

(3) Products listed in subsection (1)(f) of this section which are labeled and intended only for home and garden use are exempt from the requirements of this section.

(4) Dry formulations of dicamba, 2,4-D, MCPA, MCPP and other phenoxy hormone-type herbicides labeled and intended only for home and garden use or turf, are exempt from the requirements of this section.

(5) Distribution of pesticides bearing combined labeling of uses onto or into water plus nonaquatic general uses, may be made by licensed pesticide dealers to noncertified applicators if the dealer indicates on the sales slip or invoice that the purchaser of the pesticide agrees that it will not be applied into or onto water. If requested by the department, dealers shall furnish records on the sales of pesticides labeled for application onto or into water, whether sold for that use or not. Records shall include the name and address of the purchaser, the complete product name and/or EPA registration number of the pesticide and the amount purchased. Records shall be kept for seven years from the date of distribution.

(6) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving restricted use pesticides by making previous arrangements with the pesticide dealer, or the authorized agent may provide written authorization by the certified applicator to the dealer at the time of purchase. At the time of purchase by an authorized agent the pesticide dealer shall require the certified applicator's name and license number and positive identification of the authorized agent.

(7) Pesticide dealers must positively identify unknown purchasers of restricted use pesticides. Positive identification may be annually at the time of verification of the certified applicator's license number or for each individual purchase if the applicator is unknown to the dealer. Dealers must verify the identification of unknown purchasers of restricted use pesticides for telephone or electronic purchases either by fax (photo identification) or at the time of delivery.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1231, filed 10/28/03, effective 11/28/03. Statutory Authority: RCW 15.58.040 and chapter 34.05 RCW. 03-05-034, § 16-228-1231, filed 2/11/03, effective 3/14/03. Statutory Authority: Chapters 15.58 and 34.05 RCW. 02-04-041, § 16-228-1231, filed 1/29/02, effective 3/1/02. Statutory Authority: Chapters 15.58, 17.21 RCW. 00-22-073, § 16-228-1231, filed 10/30/00, effective 11/30/00.]

WAC 16-228-1238 What are the restrictions on application of ziram to Bosc pears? All dry formulations (such as wettable powders or water dispersible granules) of ziram labeled for use on pears are hereby declared state restricted use pesticides because of dermal effects to persons exposed while working in Bosc pear orchards.

(1) Growers shall observe the Environmental Protection Agency restricted entry interval label requirements following any treatment with dry wettable formulations of ziram before entering or allowing persons to enter pear orchards without personal protective clothing.

(2) Any entry during the restricted entry interval shall follow chapter 16-233 WAC, Worker protection standards, regarding handler, farm worker safety, and early-entry handler requirements.

(3) Growers shall observe an additional fourteen days after an application before entering or allowing workers to enter Bosc pear orchards without personal protective clothing as defined below.

(4) For the purposes of this section, minimum personal protective clothing shall consist of: A long-sleeved shirt; long-legged pants; socks; and chemical resistant gloves.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1238, filed 10/28/03, effective 11/28/03.]

WAC 16-228-1250 What are the restrictions on phenoxy herbicides? (1) The distribution, use and application of all high volatile ester and dust formulations of phenoxy herbicides shall be prohibited throughout the state.

(2) In the areas under order, pesticide dealers shall make available to the purchaser a copy of the rules pertaining to the use of dicamba and/or phenoxy hormone-type herbicides, including 2,4-D and MCPA, in the area in which the material will be applied.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1250, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1250, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1260 What are the restrictions on the distribution of tributyltin products? (1) The distribution for use in Washington state of paint, stain, paint additives, or similar products containing any chemical form of tributyltin for use in interiors of inhabited structures (i.e., residences, office buildings, institutions, recreational vehicles, and retail stores) shall be prohibited: Provided that this section shall not apply to specialty products, such as tile grout additives or cooling tower biocides.

(2) No tributyltin-containing paint, stain, paint additives, or similar products as specified in subsection (1) of this section may be registered for distribution unless its label clearly indicates that it shall not be used on interior surfaces of inhabited structures or that it shall be used on exterior surfaces only.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1260, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1260, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1262 When are pesticides containing the active ingredient thiamethoxam restricted use pesticides? Pesticides containing the active ingredient thiameth-

oxam are declared to be restricted use pesticides when labeled for use on pome fruits, including apples and pears.

[Statutory Authority: RCW 15.58.040, 17.21.030, and chapter 34.05 RCW. 03-05-033, § 16-228-1262, filed 2/11/03, effective 3/14/03.]

WAC 16-228-1264 What are the restrictions on the use of pesticides containing the active ingredient thiamethoxam when labeled for use on pome fruits, including apples and pears? In addition to the restrictions placed on the product label, pesticides containing the active ingredient thiamethoxam cannot be applied to pome fruits, including apples and pears, without complying with the requirements in WAC 16-228-1266.

[Statutory Authority: RCW 15.58.040, 17.21.030, and chapter 34.05 RCW. 03-05-033, § 16-228-1264, filed 2/11/03, effective 3/14/03.]

WAC 16-228-1266 What requirements must I comply with before making an application of a pesticide containing the active ingredient thiamethoxam to pome fruits, including apples and pears? Before applying thiamethoxam to pome fruits, including apples and pears, you must comply with the following requirements:

(1) For product labeled for use on **apples,** apply thiamethoxam prior to prebloom (prepink or tight cluster growth stage) or after post bloom (petal fall). Do not apply thiamethoxam between prebloom and petal fall.

(2) For **pears,** apply thiamethoxam prior to prebloom (green cluster or cluster bud stage) or after post bloom (petal fall). Do not apply thiamethoxam between prebloom and petal fall.

(3) Do not apply thiamethoxam to blooming plants or allow it to drift onto blooming plants. This is especially critical if there are adjacent orchards that are blooming. (Refer to recommendations to avoid spray drift on the product label for additional information.)

(4) After an application of thiamethoxam, wait at least five days before placing the beehives in the treated orchard.

(5) If bees are foraging in the orchard ground cover and it contains any blooming plants or weeds, always remove flowers before making an application of thiamethoxam. This may be accomplished by mowing, disking, mulching, flailing or applying a labeled herbicide.

[Statutory Authority: RCW 15.58.040, 17.21.030, and chapter 34.05 RCW. 03-05-033, § 16-228-1266, filed 2/11/03, effective 3/14/03.]

WAC 16-228-1270 What are the restrictions on the use of pesticides on small seeded vegetable seed crops, seed alfalfa and seed clover? (1) For purposes of pesticide registration, the following crops, when grown to produce seed specifically for crop reproduction purposes, are considered nonfood and nonfeed sites of pesticide use:

Common Name	Synonyms
alfalfa	
arugula	Mediterranean salad, rucola, roquette, Ghargir
beet	garden and sugar
broccoli	
broccoli raab	Rapani, Choy Sum, Chinese flowering cabbage
Brussels sprouts	
cabbage	
carrot	
cauliflower	
Chinese cabbage (Bok Choy)	Pak Choi (Choy), Bok Choi (Choy), Taisai, celery mustard, spoon cabbage
Chinese cabbage (napa)	Pe-tsai
Chinese broccoli	Chinese kale, Gailon
clover	
collard	
coriander	cilantro
dill	
endive	escarole
kale	bore kale
kohlrabi	
leek	
lettuce	
mizuna	
mustard (including Chinese and Indian)	
onion (bulb)	
onion (bunching)	
parsley	
parsnip	
radish (other than daikon)	
rape	
rutabaga	
spinach	
spinach mustard	
swiss chard	spinach beet
turnip	

(2) For the seed crops listed in subsection (1) of this section, the following conditions shall be met:

(a) All seed screenings shall be disposed of in such a way that they cannot be distributed or used for human food or animal feed. The seed conditioner shall keep records of screening disposal for three years from the date of disposal and shall furnish the records to the director immediately upon request. Conditioner disposal records shall consist of documentation of on-farm disposal, disposal at a controlled dump site, incinerator, composter, or other equivalent disposal site and shall include the lot numbers, amount of material disposed of, the grower(s), and the date of disposal.

(b) No portion of the seed plant, including but not limited to green chop, hay, pellets, meal, whole seed, cracked seed, roots, bulbs, leaves and seed screenings may be used or distributed for food or feed purposes.

(c) All seed from the crops listed in subsection (1) of this section grown or conditioned in this state shall bear a tag or container label which forbids use of the seed for human consumption or animal feed.

(d) No seed from the crops listed in subsection (1) of this section grown or conditioned in this state may be distributed for human consumption or animal feed.

(3) Violation of any condition listed in subsection (2) of this section is declared to be a violation of chapters 17.21 and 15.58 RCW.

(4) Any seed crop certified under provisions of RCW 15.86.070, the Organic Food Products Act, shall be exempt from the requirements of this section.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1270, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58, 17.21 RCW. 00-22-073, § 16-228-1270, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1270, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1300 What are the recordkeeping requirements for pesticide dealers? Pesticide dealers shall keep and furnish records to the director immediately upon request on the distribution of any pesticide except those labeled only for home and garden. Records shall be kept for a period of seven years from the date of distribution. General use distribution requests shall be limited to records necessary for investigations of suspected violations, damage complaints, inspections, monitoring distribution and use under provisions of special local needs registrations, emergency exemptions from federal registration and experimental use permits, and monitoring of any pesticide suspected of unreasonable adverse effects on the environment. The records shall contain the following information:

(1) Full name and address of purchaser;

(2) Full name and address of certified applicator (if different from subsection (1) of this section for restricted use pesticides);

(3) Certified applicator's pesticide license number (for restricted use pesticides);

(4) Full name of authorized agent for restricted use pesticides;

(5) Brand and specific pesticide name and EPA registration number;

(6) Number of pounds or gallons of the pesticide distributed;

(7) Date of distribution;

(8) Crop and/or site to which pesticide will be applied (for restricted use pesticides).

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1300, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-22-074, § 16-228-1300, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1300, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1320 What are the recordkeeping requirements for pesticide applicators? (1) Certified applicators and all persons applying pesticides to more than one acre of agricultural land in a calendar year including public entities engaged in roadside spraying, and all persons making landscape applications of pesticides to types of property listed in RCW 17.21.410 (1), (b), (c), (d) and (e) shall keep records for each application which shall include the following:

(a) The full name and full address of the person for whom the pesticide was applied.

(b) The address or exact location of the land where the pesticide was applied. If the application is made to one acre or more of agricultural land, the field must be located on the map on the adopted form. Location of agricultural land shall be made using section, township and range, geographical positioning system coordinates, or by irrigation block and farm unit numbers.

(c) The year, month, day and start and stop time the pesticide was applied.

(d) The product name used on the registered label and the United States Environmental Protection Agency registration number, if applicable, of the pesticide which was applied.

(e) The direction from which the wind is blowing and estimated velocity of the wind in miles per hour (mph) and the temperature in degrees Fahrenheit at the time the pesticide was applied: Provided that this subsection (e) shall not apply to applications of baits in bait stations, pesticide applications within structures and drip or subsurface irrigation applications. Wind and temperature readings shall be obtained in close proximity to the application site.

(f) The total amount of pesticide applied such as pounds, gallons, ounces, etc.

(g) The amount of pesticide applied per acre or one thousand square feet or other appropriate measure.

(i) For PCO classification or residential ornamental applications, the amount shall be recorded to the nearest ounce of product or to the nearest gallon of liquid spray per site.

(ii) Fumigation records shall include the pounds of gas released per one thousand cubic feet of space, the temperature, and the duration of the exposure period.

(h) The concentration of pesticide that was applied. Liquid applications may be recorded as, but are not limited to, amount of product per one hundred gallons of liquid spray, gallons per acre of output volume, ppm, percent product in tank mix (e.g., 1%). For chemigation applications record "inches of water applied" or other appropriate measure.

(i) The pests to be controlled (for PCO classification only).

(j) Specific crop or site to which pesticide was applied.

(k) Apparatus license plate number.

(l) The licensed applicator's full name, certified pesticide applicator license number, complete address, telephone number, and the full name and license number(s) if applicable of the individual or individuals making the application.

(m) The number of acres or other appropriate measure to which the pesticide was applied.

(2) Application records shall be completed and available to the department the same day the pesticides were applied.

(3) Application records shall be kept for a period of seven years from the date of the application of the pesticide to which such records refer. The director shall, upon request in writing, be furnished with a copy of such records immediately by the licensee.

(4) Upon written request, the applicator shall provide the customer with a record of each application of pesticides to his/her land, for the current season, which shall contain the information listed in WAC 16-228-1320(1).

(5) Except as stated in subsection (6) of this section, the information required in subsection (1) of this section shall be provided upon request on the appropriate page of the pesticide record form (figures 1-8): Provided that computerized records may be maintained as long as the records can be produced in the form and format prescribed by the department.

(6) The department may allow by written permit the information required in subsection (1) of this section to be

kept in a different form and format than that described in figures 1-8: Provided that the following criteria are met:

(a) The pesticide application recordkeeping system is computerized;

(b) The pesticide application recordkeeping system contains all the information required by subsection (1) of this section, and can be produced in a form and format acceptable to the department.

(7) All apparatus shall be kept in good repair and only that apparatus capable of performing all functions necessary to ensure proper and thorough application of pesticides shall be used. Apparatus shall be cleaned so that no residue remains which may cause injury to land, humans, desirable plants and animals, from subsequent applications.

(8) On demand of the director, the applicator shall make immediately available for inspection the pesticides being applied and the apparatus used for the application: Provided that this inspection is made at the site of application or where the apparatus is located.

(9) The applicator shall make available necessary safety equipment in proper working order and advise employees on its use to meet the safety requirements of the pesticide label.

(10) Maintain a uniform mixture at all times in operating apparatus when applying pesticides.

(11) All containers used for prepared mixtures, other than those in an apparatus, shall have a label identifying the contents as a pesticide, the active ingredient, and appropriate cautions.

State of Washington
Department of Agriculture
Olympia, Washington 98504

PESTICIDE APPLICATION RECORD (Version 1)

NOTE: This form must be completed same day as the application and it must be retained for 7 years (Ref. chapter 17.21 RCW)

1. Date of Application - Year: . . . . . Month: . . . . . Day: . . . . . Start Time: . . . . . Stop Time: . . . . . .
2. Name of person for whom the pesticide was applied: . . . . . Firm Name (if applicable): . . . . . Street Address: . . . . . City: . . . . . State: . . . . . Zip: . . . . . .
3. Licensed Applicator's Name (if different from #2 above): . . . . . License No.: . . . . . Firm Name (if applicable): . . . . . Tel No.: . . . . . Street Address: . . . . . City: . . . . . State: . . . . . Zip: . . . . . .
4. Name of person(s) who applied the pesticide (if different from #3 above): . . . . . License No(s). If applicable: . . . . . .
5. Application Crop or Site:
6. Total Area Treated (acre, sq. ft., etc.): . . . . . .
7. Was this application made as a result of a WSDA Permit? ?No ?Yes (If yes, give Permit No.) # . . . . . .
8. Pesticide Information (please list all information for each pesticide, including adjuvants (buffer, surfactant, etc.), in the tank mix):

a) Full Product Name	b) EPA Reg. No.	c) Total Amount of Pesticide Applied in Area Treated	d) Pesticide Applied/Acre (or other measure)	e) Concentration Applied
			/	
			/	
			/	
			/	
			/	

9. Address ***or exact location*** of application. NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form.

10. Wind direction and estimated velocity (mph) during the application: . . . . . .
11. Temperature during the application: . . . . . .
12. Apparatus license plate number (if applicable): . . . . . .
13. ?Air ?Ground ?Chemigation
14. Miscellaneous Information:

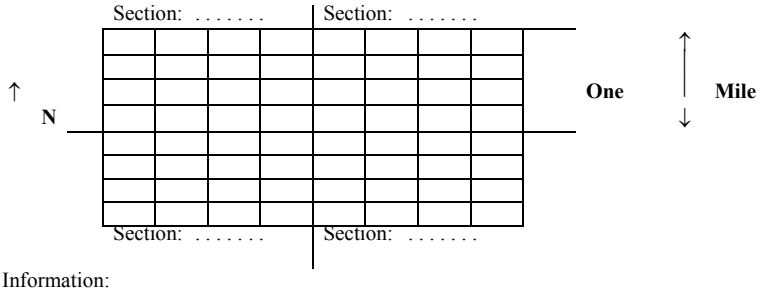
AGR 4226 (Rev. 5/03)

Location of Application: If the application covers more than one township or range, please indicate the township & range for the top left section of the map only:

Township: . . . . . N
Range: E OR W (please indicate:) . . . . . .
Section(s): . . . . . .
Block: . . . . . Farm Unit: . . . . . .
or GPS: . . . . . .
County: . . . . . .

PLEASE NOTE:

The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.



Miscellaneous Information:

INSTRUCTIONS

Pesticide Application Record (Version 1) AGR 4226 (Rev. 5/03)

1. Date may be spelled out or indicated numerically. Time must be indicated as start and stop times.

2. Include first and last name.

3. If the person's name is the same as No. 2, write "same" in the space for the licensed applicator's name and include the license number (if applicable) and telephone number.

4. Include first and last name(s).

5. Indicate type of land or site treated, not location. Examples: Wheat, apples, rights of way, lawn, trees and shrubs, crawl space, wall voids, etc.

6. May also be stated in terms such as linear feet, cubic feet, etc. (Specify the term to which the number refers.) If spot treatment, write spot treatment.

7. If the application was made under permit, but no permit number was issued, indicate the date the permit was issued.

8.a) Brand name found on the pesticide label including adjuvants (buffer, surfactant, dye, etc.).

b) This number is found on the pesticide container label. If the material is being applied under a federal experimental use permit and no EPA Reg. No. exists, list the federal experimental use permit number. If the material is a spray adjuvant (buffer, spreader, sticker, etc.) write "adjuvant" in this space.

c) Indicate the amount of pesticide formulation (product) applied to the total area listed on line 6.

INSTRUCTIONS

d) Other measures may include amount/sq. ft., amount/cu. ft., amount/linear ft., etc.

e) This may be listed in various ways, such as: Amount of product/100 gallons water, percent formulation in the tank mix (i.e., 1%), gallons per acre of output volume, ppm (or other measure), or inches of water applied (chemigation). Specify the term to which the number refers.

9. Agricultural land includes such areas as forest lands and range lands. It does not include transportation and utility rights of way.

10. Indicate the direction from which the wind is blowing. Measure wind velocity in mph. If the wind varies in direction and velocity during the application, indicate the range of variance (i.e., S-SW 3-7 mph). Wind readings shall be obtained in close proximity to the application site.

11. Indicate temperature in degrees Fahrenheit. (It may be indicated as the range encountered during application.) Temperature readings shall be obtained in close proximity to the application site.

12. This does not apply to private applicators or public agencies.

13. Check one.

14. Depth of application/inches of water (chemigation).

15. This space is available for any additional information you may wish to include.

Form AGR 4226 (Rev. 5/03) Pg. 2

State of Washington
Department of Agriculture
Olympia, Washington 98504

PESTICIDE APPLICATION RECORD (Version 2)

NOTE: Application information must be completed same day as the application and must be retained for seven years (Ref. chapter 17.21 RCW)

1. Name & Address of Person for Whom Pesticide was Applied	2. Applicator Name and Address (if different from # 1) . . . . Tel. No. . . . . Lic. No. . . . .
3. Full, complete address or exact location of application (NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form)	4. Misc. Info:

5. Date and Time of Application (Start and Stop)	6. Crop or Site Treated	7. Acres Treated (or other measure)	8. FULL PRODUCT NAME	9. EPA Registration Number	10. Amount of Product Applied		11. Concentration	12. Weather Conditions (wind direction, velocity, temperature). Apparatus License Plate No. and Name and License No. of person(s) who applied pesticide
					Rate per acre (or other measure)	Total Product Applied		

	?Air ?Ground ?Chemigation							
	?Air ?Ground ?Chemigation							
	?Air ?Ground ?Chemigation							
	?Air ?Ground ?Chemigation		. . . . .	. . . . .	. . . . .	. . . . .	. . . . .	

AGR 4235 (Rev. 5/03)

Location of Application (If the application covers more than one township or range, please indicate the township & range for the top left section of the map only:

Township: . . . . . N

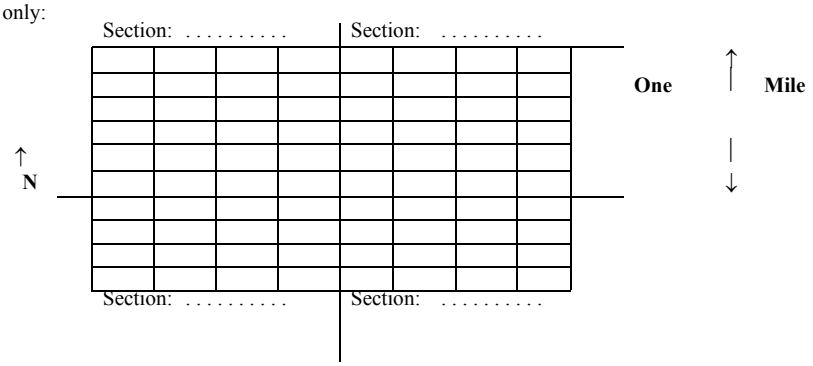
Range: E OR W (please indicate) . .

Section(s): . . . . . .

Block: . . . . . Farm Unit: .

or GPS: . . . . . .

County: . . . . . .



PLEASE NOTE:

The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.

AGR 4235 Pg. 2

INSTRUCTIONS

Pesticide Application Record (Version 2) AGR 4235 (Rev. 5/03)

1. Include first and last name.
2. If the person's name is the same as No. 1, write "same" in the space for the licensed applicator's name and include the license number (if applicable) and telephone number.
3. Agricultural land includes such areas as forest lands and range lands. It does not include transportation and utility rights of way.
4. This space is available for any additional information you may wish to include.
5. Date may be spelled out or indicated numerically. Application start and stop times must be indicated.
6. Indicate type of land or site treated, not location. Examples: Wheat, apples, rights of way, lawn, trees and shrubs, crawl space, wall voids, etc.
7. May also be stated in terms such as linear feet, cubic feet, etc. (Specify the term to which the number refers.) If spot treatment, write spot treatment.
8. Brand name found on the pesticide label including adjuvants (buffer, surfactant, etc.).
9. This number is found on the pesticide container label. If the material is being applied under a federal experimental

INSTRUCTIONS

use permit and no EPA Reg. No. exists, list the federal experimental use permit number. If the material is a spray adjuvant (buffer, spreader, sticker, etc.) write "adjuvant" in this space.

10. Rate per acre: Other measures may include amount/sq. ft., amount/linear ft., etc. Specify the term to which the number refers. Total product applied is the total product applied between start and stop times.
11. This may be listed in various ways, such as: Amount of product/100 gallons water, percent formulation in the tank mix (i.e., 1%), gallons per acre of output volume, ppm (or other measure), or inches of water applied (chemigation). Specify the term to which the number refers.
12. Weather conditions must include the direction from which the wind is blowing, measure velocity in mph. If the wind varies in direction and velocity during the application, indicate the range of variance (i.e., S-SW 3-7 mph). Temperature must also be indicated in degrees Fahrenheit and may be listed as the range encountered during the application. Wind and temperature readings shall be obtained in close proximity to the application site.

The apparatus license plate number does not apply to private applicators or public agencies.

Include first and last name(s) of person(s) who applied the pesticide. Include license number(s) if applicable.

State of Washington
Department of Agriculture
Olympia, Washington 98504

PESTICIDE APPLICATION RECORD (Version 3)

NOTE: This form must be completed same day as the application and it must be retained for 7 years (Ref. chapter 17.21 RCW)

1. Date of Application - Year: . . . . . Month: . . . . . Day(s): . . . . . .
2. Name of person for whom the pesticide was applied: . . . . . .
   Firm Name (if applicable): . . . . . .
   Street Address: . . . . . City: . . . . . State: . . . . . Zip: . . . . . .
3. Licensed Applicator's Name (if different from #2 above): . .
   License No.: . . . . . .
   Firm Name (if applicable): . . . . . Tel. No.: . . . . . .
   Street Address: . . . . . City: . . . . . State: . . . . . Zip: . . . . . .
4. ?Air ?Ground ?Chemigation
5. Application Crop or Site: . . . . . .
6. Total Area Treated (acre. sq. ft., etc.) . . . . . .
7. Was this application made as a result of a WSDA Permit? ?No ?Yes (If yes, give Permit No.) # . . . . . .
8. Pesticide Information (list all information for each pesticide including adjuvants in the tank mix):

a) Full Product Name	b) EPA Reg. No.	c) Total Amount of Pesticide Applied in Area Treated	d) Pesticide Applied/Acre (or other measure)	e) Concentration Applied	f) Depth of Application (Chemigation)
			/		
			/		
			/		
			/		
			/		

9. Address ***or exact location*** of application. NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form.

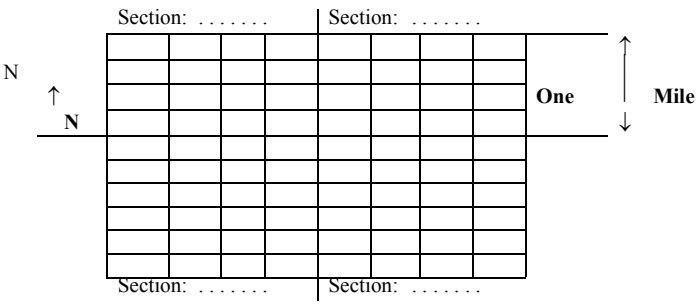
10. Date	11. Name of person(s) making the application	12. License No.	13. Apparatus Lic. Plate No.	14. Time Start	14. Time Stop	15. Acres Completed	16. Wind Dir.	16. Wind Vel. (mph)	17. Temp

AGR 4236 (Rev. 5/03)

10. Date	11. Name of person(s) making the application	12. License No.	13. Apparatus Lic. Plate No.	14. Time Start	14. Time Stop	15. Acres Completed	16. Wind Dir.	16. Wind Vel. (mph)	17. Temp

Location of Application (If the application covers more than one township or range, please indicate the township & range for the top left section of the map only.
Township: . . . . . .
Range: E OR W (please indicate): . . . . . .
Section(s): . . . . . .
Block: . . . . . Farm Unit: . . . . . .
or GPS: . . . . . .
County: . . . . . .

PLEASE NOTE:
The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.



Miscellaneous Information:

INSTRUCTIONS

Pesticide Application Record (Version 3) AGR 4236 (Rev. 5/03)
1. Date may be spelled out or indicated numerically.
2. Include first and last name.
3. If the person's name is the same as No. 2, write "same" in the space for the licensed applicator's name and include the license number (if applicable) and telephone number.
4. Check one.
5. Indicate type of land or site treated, not location. Examples: Wheat, apples, rights of way, lawn, trees and shrubs, crawl space, wall voids, etc.
6. May also be stated in terms such as linear feet or cubic feet. (Specify the term to which the number refers.) If spot treatment, write spot treatment.
7. If the application was made under permit, but no permit number was issued, indicate the date the permit was issued.
8.a) Brand name found on the pesticide label including adjuvants (buffer, surfactant, dye, etc.).
b) This number is found on the pesticide container label. If the material is being applied under a federal experimental use permit and no EPA Reg. No. exists, list the federal experimental use permit number. If the material is a spray adjuvant (buffer, spreader, sticker, etc.) write "adjuvant" in this space.
c) Indicate the amount of pesticide formulation (product/adjuvant) applied to the total area listed on line 6.
d) Other measures may include amount/sq. ft., amount/cu. ft., amount/linear ft., etc.

INSTRUCTIONS

e) This may be listed in various ways, such as: Amount of product/100 gallons water, percent formulation in the tank mix (i.e., 1%), gallons per acre of output volume, ppm (or other measure), or inches of water applied (chemigation). Specify the term to which the number refers.
f) Depth of application (chemigation).
9. Agricultural land includes such areas as forest lands and range lands. It does not include transportation and utility rights of way.
10. List the date of application.
11. Indicate first and last name(s).
12. List license number(s) if applicable.
13. This does not apply to private applicators or public agencies.
14. Application start and stop times must be indicated. Indicate a.m. or p.m.
15. The total of all entries in this column should equal the total listed on line 6.
16. Indicate the direction from which the wind is blowing. Measure wind velocity in mph. If the wind varies in direction and velocity during the application, indicate the range of variance (i.e., S-SW 3-7 mph). Wind readings shall be obtained in close proximity to the application site.
17. Indicate temperature in degrees Fahrenheit. (It may be indicated as the range encountered during the application.) Temperature readings shall be obtained in close proximity to the application site.

State of Washington
Department of Agriculture
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PESTICIDE APPLICATION RECORD (Version 4)
NOTE: This form must be completed same day as the application and it must be retained for 7 years (Ref. chapter 17.21 RCW)

A. Date of Application - Year: . . . . . Month: . . . . . Day: . . . . .
B. Firm Name: . . . . . Telephone No.: . . . . .
Commercial Applicator's Name: . . . . . License No.: . . . . .
Street Address: . . . . . City: . . . . . State: . . . . . Zip: . . . . .
C. Name of person(s) who applied the pesticide: . . . . .
License No(s): . . . . .
D. Pesticide Information (list all information for each pesticide including spray adjuvants (buffer, surfactant, dye, etc.) in the tank mix):

Full Product Name	EPA Reg. No.	Concentration Amount: (Lbs., Qts., etc.) of brand per 100 gallons of tank mix. Amount and unit must be specified.

E. Application crop or site: . . . . . F. Apparatus License Plate No. . . . . .
G. Record the following information for the specific conditions during each application:

	CUSTOMER (a) full name (b) complete address	AMOUNT APPLIED (gals. of mix)	AREA TREATED (sq. ft., etc.)	START AND STOP TIME	TEMP F°	WIND DIR VEL (mph)	
1. a)							
b)							
2. a)							
b)							
3. a)							
b)							
4. a)							
b)							
5. a)							
b)							
6. a)							
b)							
7. a)							
b)							
8. a)							
b)							
9. a)							
b)							

AGR 4234 (Rev. 5/03)

INSTRUCTIONS

Pesticide Application Record (Version 4) AGR 4234 (Rev. 5/03)

This form may only be used for commercial residential ornamental and lawn applications. It may not be used to satisfy the application record requirements for agricultural employers.

A. Date may be spelled out or indicated numerically.

B. Include first and last name of the commercial applicator.

C. Include first and last name(s).

D. Product name: Brand name found on the pesticide label including adjuvants (buffer, surfactant, dye, etc.).

INSTRUCTIONS

E. Indicate type of land treated, not location. Examples: Rights of way, lawn, trees and shrubs, driveways, etc.

F. List the number of the license plate affixed to the apparatus.

G. Customer's name and application information should be listed on line A. Street address should be listed on line B, including city. Additional pages may be added for additional customers on the same day, so long as the information in A through F remains the same.

DAILY PESTICIDE APPLICATION RECORD (Version 5)
For Commercial Pest Control Operators Only

NOTE: This form must be completed same day as the application and retained for seven years (Ref. chapter 17.21 RCW)

A. FIRM NAME AND ADDRESS: . . . . . TELEPHONE NUMBER: . . . . .

B. APPLICATOR NAME: . . . . . LICENSE NO. . . . . .

C. PERSON MAKING APPLICATION: . . . . . LICENSE NO. . . . . .

D. DATE: . . . . . E. APPARATUS LICENSE NO: . . . . .

CUSTOMER (a) FULL NAME (b) FULL ADDRESS OR LOCATION OF APPLICATION (c) TARGET PEST	(a) EPA REG. NO./FULL PRODUCT NAME(S) (b) CONCENTRATION (c) TOTAL AMOUNT USED	(a) TIME (IN/OUT) (b) TEMP. (c) WIND DIR./ VELOCITY	APPLICATION SITE (C&C, SPOT, VOID, INJECTIONS, ETC.)	PESTICIDE APPLIED/ACRE OR OTHER MEASURE	
1. a)				/	
b)				/	
c)				/	
2. a)				/	
b)				/	
c)				/	
3. a)				/	
b)				/	
c)				/	
4. a)				/	
b)				/	
c)				/	
5. a)				/	
b)				/	
c)				/	
6. a)				/	
b)				/	
c)				/	
7. a)				/	
b)				/	
c)				/	

AGR 4237 (Rev. 5/03) **OPTIONAL:** MILEAGE START MILEAGE END

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1320, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-22-074, § 16-228-1320, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1320, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1322 What are the requirements for removal of landscape markers and notification of restricted entry? (1) The marker shall remain in place for a minimum of twenty-four hours from the time the landscape application is originally posted as required by RCW 17.21.-410.

(2) In the event the pesticide label requires a restricted entry interval greater than twenty-four hours, the certified applicator shall provide the property owner or tenant with the restricted entry interval times consistent with the label requirements. Markers shall remain in place consistent with the restricted entry interval times as required by the label.

(3) The property owner or tenant shall remove the marker of any landscape posted under the requirements of RCW 17.21.410 consistent with this schedule.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1322, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-22-074, § 16-228-1322, filed 10/30/00, effective 11/30/00.]

WAC 16-228-1330 What are the pilot and aircraft requirements for pesticide applicators? (1) All pilots and aircraft, used for or engaged in the commercial application of pesticides shall comply fully with the appropriate rules and regulations of the Federal Aviation Administration.

(2) All applicants for an aerial applicators license shall comply with FAA certification requirements. The department may require a current copy of the FAA operating certificate prior to issuance of a license.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1330, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1330, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1370 What are the department requirements for a waste pesticide disposal program? Under authority of chapter 15.58 RCW, the department may establish a waste pesticide disposal program for farmers, or other parties regulated under chapter 17.21 RCW or licensed under chapter 15.58 RCW.

(1) Upon review and determination that a pesticide is no longer useable, the department may declare a pesticide to be a "waste pesticide."

(2) The department may take possession of a waste pesticide with the owner's written consent for the purpose of disposal.

(3) For the purpose of waste pesticide disposal, the department may:

(a) Become identified as a hazardous waste generator;

(b) Enter into contracts or cooperative agreements to carry out portions of or all of the waste pesticide disposal program. The department may also enter into cooperative agreements to carry out portions of or all of the development of education programs relating to waste pesticide disposal and programs for dissemination of information concerning the department's disposal program.

(4) The department may accept pesticides whose active ingredients are not clearly identifiable for disposal. These pesticides may be analyzed by either the department or a private laboratory. If upon analysis the material is not a pesticide, not identified or not acceptable for disposal, it shall be returned to the owner and/or not accepted for disposal.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1370, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1370, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1380 What are the regulations for application of vertebrate control pesticides? Vertebrate control pesticides shall be used only under the following conditions:

(1) Vertebrate control pesticides shall be placed only in locations that are not readily accessible to nonpest animals, children, and unauthorized persons, and in a manner that shall preclude contamination of food, feed, drugs, and other consumer commodities. Exposure of rodenticides baits within buildings shall not be above floor levels.

(2) Baits shall be colored or otherwise formulated so that they will be identifiable from foods common to the establishment in which the bait is placed.

(3) When the use of bait boxes is necessary to ensure that baits are not readily accessible to nonpest animals, children, and unauthorized persons, the bait boxes shall be of sturdy construction and tamper resistant. Baits placed in industrial, commercial or other areas that are accessible to the public shall be contained in tamper resistant bait boxes and such bait boxes shall be secured in such a way that nonpest animals, children and unauthorized persons cannot displace or remove the baits out of such bait boxes. Bait boxes shall be labeled clearly with letters on contrasting background showing the following information:

(a) Any information required by the EPA or Washington state registered label for the bait or the concentrate from which it was formulated.

(b) The name of the active ingredient(s).

(c) The name of the firm and/or certified applicator, address, and the telephone number.

(4) Containers used for exposing vertebrate control baits to pests shall be composed of tough, nonabsorbent, corrosion resistant materials and designed so they cannot be readily overturned or carried off by pest animals. Those containers that are used for exposing vertebrate control pesticides outside of bait boxes shall bear a legible warning label with wording not less restrictive than requirements on bait boxes being used as per WAC 16-228-1380(3), (except for the size of lettering). Food containers, such as "meat boats" and "souffle cups" are unacceptable. Containers used for liquid bait exposure shall be water and/or liquid impervious.

(5) All vertebrate control pesticide stocks, when not in use or when unattended, shall be kept in locked storage or locked service vehicles.

(6) All containers used for storing or transporting vertebrate control pesticides shall bear an EPA or department registered label.

(7) Applicator's kits which contain vertebrate control pesticides shall be handled with extra caution and shall not be

left where children or other unauthorized persons or nontarget animals might remove contents.

(8) Upon completion of a baiting operation, all bait boxes, containers, and/or throw bags, if they may become readily accessible to the public, shall be recovered for disposal in an approved manner.

(9) Wherever poisoned carcasses jeopardize public sanitation, or create a health hazard to wildlife, domestic animals, or the public, they shall be recovered and disposed of by burning, burying not less than three feet below the soil surface, or placed in proper waste containers and delivered to an approved disposal site.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1380, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58, 17.21 RCW. 00-22-073, § 16-228-1380, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1380, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1400 What are the requirements for pesticide labels? (1) In addition to the requirements set forth in (2) through (5) below, pesticide labeling shall meet the standards or criteria of FIFRA.

(2) Any pesticide exempted from registration under the provisions of section 18 of FIFRA must be labeled as follows:

(a) Pesticides distributed under section 18 of FIFRA must be accompanied by a label approved by the department prior to distribution. All conditions set forth in the document granting the emergency exemption and all other requirements determined to be necessary by the department must be included on the label.

(b) In situations where a label cannot be developed and approved prior to the intended use period, the department may allow the use of the document granting the emergency exemption in lieu of labeling. Conditions set forth as part of the granting document, and any attached or associated documentation from the department shall be considered labeling for purposes of enforcement.

(3) Labels for spray adjuvants must include the following:

(a) The product brand name.

(b) The type or function of principal functioning agents. Terms used to describe adjuvant functions must be consistent with American Society for Testing and Materials (ASTM) Standard E 1519, unless ASTM has not defined a term. In the absence of an ASTM definition, the department will determine the appropriate term(s). Functions claimed must be consistent with the principal functioning agents. If two or more functions are claimed, then the functions must be listed in descending order (starting with the primary function).

(c) An ingredient statement that shall include the following:

(i) "Principal functioning agents." The principal functioning agents must be listed by chemical name in descending order of composition with either individual or total percentage(s). If more than 3 functioning agents are present, only the 3 principal agents need to be listed;

(ii) The percentage of "Constituents ineffective as spray adjuvants," and

(iii) The total percentage of all ingredients which must equal 100%.

(d) Directions for use that must include a description of intended uses and recommended use rates.

(e) Precautionary statements adequate to protect people and the environment that shall include the following:

(i) The statement "Keep Out Of Reach Of Children."

(ii) A signal word (danger, warning or caution) and precautionary statements (including requirements for personal protective equipment, if applicable) consistent with product toxicity data; and

(iii) A statement prohibiting aquatic use, unless the registrant provides data to demonstrate that the proposed use will not cause unreasonable adverse effects to fish and aquatic invertebrates.

(f) An appropriate storage and disposal statement.

(g) The name and address of the registrant or manufacturer. If the registrant's name appears on the label and the registrant is not the manufacturer, then the name must be qualified by appropriate wording such as "Packaged for" or "Distributed by."

(h) The weight or measure of the contents.

(i) In situations where the department deems it appropriate, the use of alternative language and/or statements may be allowed or required.

(j) Optional information: The spray adjuvant label may also include an exemption from tolerance statement (if applicable), an unsulfonated residue (UR) value (if applicable), the Washington registration number and a label identification code (such as the revision date).

(4) Special local need (SLN) labels issued under section 24c of FIFRA must include the following:

(a) A federal or state Restricted Use Pesticide (RUP) designation statement (when applicable).

(b) The statement "FOR DISTRIBUTION AND USE ONLY WITHIN THE STATE OF WASHINGTON."

(c) The product brand name.

(d) The EPA and SLN registration numbers of the product.

(e) The statement: "It is a violation of federal law to use this product in a manner inconsistent with its labeling."

(f) The statement: "This labeling must be in the possession of the user at the time of application."

(g) One of the following statements:

(i) For agricultural use SLN labels the statement: "Follow all applicable directions, restrictions, worker protection standard requirements, and precautions on the EPA registered label"; or

(ii) For nonagricultural use SLN labels the statement: "Follow all applicable directions, restrictions, and precautions on the EPA registered label."

(h) Directions for use that must include the following: crop or site to be treated, pest(s) to be controlled, application rate and concentration, method of application, frequency and timing of application, and pre-harvest interval.

(i) All restriction or precaution statements (e.g. pollinator protection, herbicide drift, aquatic toxicity, chemigation, seed crop requirements) applicable to the use.

(j) An expiration date statement such as: "This label for (Product name) expires and must not be distributed or used in accordance with this SLN registration after December 31, (Fifth year)." Fifth year means the fifth year after issuance of the SLN label.

(k) The name and address of the SLN registrant.

(l) A label identification code (such as the revision date).

(m) Any other applicable information required by the EPA or the department.

(n) In situations where the department deems it appropriate, the use of alternative language and/or statements may be allowed or required.

(o) Optional information: The SLN label may also include a waiver of liability statement (if applicable). The waiver of liability statement must be consistent with EPA requirements.

(5) Labels for minimum risk pesticides exempted from federal registration under section 25(b) of FIFRA must include the following:

(a) The product brand name.

(b) The product function. The function(s) claimed must be consistent with product ingredients.

(c) An ingredient statement that shall include the following:

(i) "Active ingredients." These ingredients must be listed by name (in descending order of composition) with individual percentage(s). Only active ingredients listed in 40 CFR 152.25(g) are permitted;

(ii) "Inert ingredients" or "Other ingredients." These ingredients must be listed by name with the cumulative percentage of all inert ingredients stated on the label. Only inert ingredients on EPA Inerts List 4A (40 CFR 180.950) are permitted; and

(iii) The total percentage of all ingredients which must equal 100%.

(d) Directions for use that must include a description of intended uses and use rates. The label must not bear claims either to control or mitigate microorganisms that pose a threat to human health.

(e) Precautionary statements adequate to protect people and the environment that shall include the following:

(i) The statement "Keep Out Of Reach Of Children," and

(ii) A signal word (danger, warning or caution) and precautionary statements (including requirements for personal protective equipment, if applicable) consistent with product toxicity data.

(f) An appropriate storage and disposal statement.

(g) The name and address of the registrant or manufacturer. If the registrant's name appears on the label and the registrant is not the manufacturer, then the name must be qualified by appropriate wording such as "Packaged for" or "Distributed by."

(h) The weight or measure of the contents.

(i) In situations where the department deems it appropriate, the use of alternative language and/or statements may be allowed or required.

(j) Optional information: The minimum risk pesticide label may also include the Washington registration number and a label identification code (such as the revision date).

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1400, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-22-074, § 16-228-1400, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1400, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1410 What pesticides are considered home and garden use only pesticides? For purposes of this section, "home and garden use only" means any pesticide determined by the department to be packaged and labeled solely for use by the general public in and around a residence. In making this determination, the department shall consider, but not be limited to, the following criteria:

(a) Packaging;

(b) Package size;

(c) Label instructions;

(d) Application method;

(e) Equipment to be used;

(f) Rates of application.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1410, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1410, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1420 What are the requirements for complete pesticide formula? The complete pesticide formula shall include a listing of each active and inert ingredient and the percentage of each ingredient. This information will be kept confidential and is exempt from disclosure as a public record as provided by RCW 15.58.065 except for names of inert ingredients of pesticides exempt under section 25b of FIFRA which according to CFR 152.25 (g)(3)(i) must have this information on the label. Information required by this section may be submitted on company letterhead marked "confidential" in red ink on each sheet or each "EPA confidential statement of formula" information sheet.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1420, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-22-074, § 16-228-1420, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1420, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1430 What is an adequate pesticide container? Containers, i.e., packages, cartons, bags, cans, barrels, bins, etc., in which pesticides are sold, offered for sale, or transported within the state of Washington shall be of sufficient strength and of such construction as to alleviate danger of spillage or breakage. Pesticides found to be packaged in unsafe containers shall be placed under "stop sale" order. Containers shall meet the minimum federal specifications.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1430, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1430, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1440 What pesticides must be artificially colored or have an odor added? (1) No highly toxic pesticide in powdered or granular form or highly toxic pesticide baits having a label recommendation for use in any building, ship, or similar enclosure shall be sold within the state of Washington unless it is distinctly colored or discolored in such a way that it does not resemble any food.

(2) A pesticide in liquid form with colors resembling a beverage or liquid food, which does not have a distinctive odor, shall have an odorous substance added that is distinctly different from any beverage or liquid food.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1440, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1440, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1450 What are the requirements for pesticide-fertilizer registration and labeling? (1) Each pesticide-fertilizer mix containing different pesticide active ingredients and/or percentages must be registered with the director: Provided that the fertilizer portion shall be considered an inert ingredient for the purpose of this order. Such registrations may be to the nearest one-tenth of one percent by weight of all active ingredient/s, except for nitrification inhibitor-pesticide mixes as stated in (4) below.

(2) A specimen pesticide-fertilizer label shall be registered with the director before distribution or sale. These labels shall bear the following items:

(a) A pesticide ingredient statement identifying the active ingredient(s) and showing the percent by weight of each active ingredient;

(b) EPA registration number of each pesticide used to formulate the pesticide-fertilizer mix;

(c) Crop(s) on which the pesticide-fertilizer mix may be used and the amount of pesticide-fertilizer mix to be applied per acre;

(d) Timing of application (for instance, preplant) and the preharvest interval;

(e) Net weight of the shipment;

(f) Name and address of the registrant or manufacturer;

(g) Any other information required by the director.

(3) Labeling bearing all of the information specified in (2) above and a complete specimen label for each pesticide product used to formulate the pesticide-fertilizer mix shall accompany each pesticide-fertilizer mix shipment. All or portions of the information required in (2) above may occur on the invoice of a custom mix: Provided that an appropriate specimen invoice has been registered by the director as pesticide labeling.

(4) Pesticide-fertilizer mixes containing nitrification inhibitors or agents intended for nitrogen stabilization only, and no other pesticide active ingredients, may be registered without specifying the percentage of active ingredient. The amount of active ingredient in the mix must be stated on the label that accompanies each shipment.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1450, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1450, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1455 What are the requirements on dry pesticide-fertilizer mixes? No person shall distribute, sell, offer for sale, or hold for sale any dry pesticide incorporated in a dry blended bulk fertilizer mix.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1455, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1455, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1460 What are the requirements for experimental use permits? (1) Pesticides shall not be distributed or used for experimental purposes unless a written permit has been obtained from the director. All distribution and use of pesticides for experimental purposes shall be subject to restrictions and conditions described in the experimental use permit. Applications for experimental use permits shall be submitted on forms prescribed by the director.

(2) For individual experimental use permits that are product and site specific, the application shall include the following (when applicable):

(a) Name of the active ingredient and/or product name and/or EPA registration number of the product to be used;

(b) Person responsible for carrying out provisions of the experimental use permit and means of locating this person in case of emergency;

(c) Target pest(s);

(d) Crop or site and location(s) to which the pesticide is to be applied;

(e) Disposition of any treated food or feed and of subsequent crops from treated sites;

(f) Rate of application of formulation or active ingredient and number of applications;

(g) Timing and duration of the proposed program;

(h) Area (acres, sq. ft., etc.) to which the pesticide is to be applied;

(i) Total amount of pesticide to be applied;

(j) Federal experimental use permit number and text;

(k) Labeling to accompany the pesticide in the field;

(l) Any other information required by the director.

(3) An individual experimental use permit shall not be issued for use of a pesticide on a food or feed unless a tolerance greater than residues anticipated from the treatment or exemption from the requirement of a tolerance has been obtained from the Environmental Protection Agency, provisions for destruction of the treated food or feed and any crop residue have been made, or adequate demonstration has been made to the department that no detectable pesticide residue from the experimental program will be present in food or feed. The director may require evidence to substantiate any of the above.

(4) Collective experimental use permits may be issued by the director for experimental programs conducted on terrestrial sites by recognized research institutions, organizations, pesticide registrants, or persons licensed by the department to conduct demonstration and research activities on land they own or control. For the purposes of this section, "control" means:

(a) The person responsible for carrying out the provisions of the experimental use permit owns or leases the land on which the pesticide is being applied; or

(b) The person responsible for carrying out the provisions of the experimental use permit has received documented permission from the landowner or manager to conduct such activities.

(5) An application for a collective experimental use permit shall include the following:

(a) The name, address and phone number of the person responsible for carrying out the provisions of the collective experimental use permit, and means of locating the person in case of emergency;

(b) A signed statement that:

(i) Use will not exceed one acre per active ingredient per year;

(ii) No applications will be made to aquatic sites (experimental applications to aquatic sites must be performed under an individual experimental use permit);

(iii) No applications will be made to residential sites (experimental applications to residential sites must be performed under an individual experimental use permit);

(iv) All treated food and feed crops will be destroyed after harvest unless a tolerance greater than the residues anticipated from the treatment or exemption from the requirement of a tolerance has been obtained from the Environmental Protection Agency. "Destroyed" means rendered unusable for food or feed or used for research purposes only;

(v) Any adverse environmental effects will be immediately reported to the department;

(vi) All applicable use directions and restrictions on the federal, state or experimental use pesticide label will be followed.

(6) The director may monitor the implementation of any experimental use permit. This may include collection of samples, inspection of premises, records and equipment, and any other related activities specified by the director. The conditions of any experimental use permit may require notification of a designated department office prior to application and/or presence of a departmental representative at the application. Experimental use permits shall be considered labeling for purposes of enforcement. Violations of these permits shall be considered use inconsistent with the label.

(7) Summaries of experimental results, date and method of disposal of treated food or feed crop (if applicable), and any adverse environmental effects resulting from the application shall be retained by the holder of the permit for three years and shall be submitted to the department upon request of the director.

(8) Pesticides intended for experimental use must be contained in secure containers, the labeling of which must present such precautions as are known to be necessary to protect the health of persons who may come in contact with the pesticide and to prevent unreasonable adverse effects on the environment. Any unused experimental use pesticide that does not have a registered use in the state must be returned to the manufacturer or disposed of properly. Individual experimental use permits shall be considered labeling for the purposes of enforcement. Violations of these permits shall be considered use inconsistent with the label.

(9) The director may limit the amount of pesticide, acres or areas to be treated, licensing, or qualifications of persons exercising the permit, or any other condition of an experimental use permit. The director may deny, amend, suspend or revoke any experimental use permit if it is found to be in violation of applicable federal regulations, in violation of chapters 15.58 and 17.21 RCW or rules adopted thereunder, or if the director deems such action necessary to protect public health and the environment.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1460, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1460, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1500 When can a pesticide license be denied, revoked or suspended? (1) The director may deny, suspend, or revoke any provision of a license, registration, permit or certification issued under chapters 17.21 and 15.58 RCW if it is found that the applicant or the holder of the license, permit, or certification has committed any of the following acts each of which is declared to be a violation:

(a) Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be utilized;

(b) Made a pesticide recommendation or gave advice or used a pesticide inconsistent with the labeling, the EPA or Washington state registration for that pesticide, an EPA or Washington state experimental use permit for that pesticide, an exemption from registration under provisions of section 18 of FIFRA, or in violation of the EPA or Washington state restrictions on the use of that pesticide;

(c) Applied known ineffective or improper pesticides or materials;

(d) Operated a faulty or unsafe apparatus;

(e) Operated in a faulty, careless or negligent manner;

(f) Refused or neglected to comply with the provisions of the applicable sections of chapters 15.58 and 17.21 RCW, the rules adopted thereunder, or of any lawful order of the director;

(g) Refused or neglected to keep and maintain records required by chapters 15.58, 17.21 RCW, and rules adopted thereunder, or to make reports when and as required;

(h) Made false or fraudulent records, invoices, reports, and/or recommendations;

(i) Caused the application of a pesticide without having a licensed or certified applicator or operator in direct supervision as applicable;

(j) Operated an unlicensed apparatus or an apparatus without a license plate issued for that particular apparatus as provided for in chapter 17.21 RCW or failed to locate the apparatus license plate on the apparatus in a manner required by the department;

(k) Failed to properly display, when required, a department issued certified commercial ground applicator vehicle sticker;

(l) Used, or supervised the use of a pesticide which is restricted to use by certified applicators without having qualified as a certified applicator;

(m) Used fraud or misrepresentation in making an application for a license, permit, or certification or renewal of a license, permit or certification;

(n) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit or certification;

(o) Aided or abetted a certified applicator, or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW, conspired with such a certified applicator or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW or allowed one's license, permit, or certification to be used by another person;

(p) Made false, misleading or erroneous statements or reports during or after an inspection concerning any infestation or infection of pests found on land or in connection with any pesticide complaint or department investigation;

(q) Impersonated any state, county, or city inspector or official;

(r) Is not qualified to perform as a pest control consultant or pesticide dealer manager or certified applicator in the classifications in which he/she is licensed to operate or has operated, regardless of whether or not he/she has previously passed an examination provided for in chapter 15.58 RCW;

(s) To have in his/her possession a department pesticide licensing examination or to remove or cause to remove any said examination or its contents from the department without expressed consent from the department;

(t) To violate the testing policies set forth by department representatives prior to the start of an examination session; or

(u) Made or failed to make an inspection, statement, or report in violation of WAC 16-228-2005 through 16-228-2060.

(2) A penalty fee assessed as a result of a late license or registration renewal does not prevent the department from taking additional regulatory action against the violator.

(3) No pesticide dealer or dealer manager license shall be denied, suspended, or revoked, simply because a pesticide purchased from that dealer was applied in violation of chapters 15.58, 17.21 RCW or rules adopted thereunder, unless the department finds the dealer or dealer manager in violation of chapters 15.58, 17.21 RCW or rules adopted thereunder.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1500, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-24-013, § 16-228-1500, filed 11/27/00, effective 12/28/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1500, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1520 What are the requirements for the commercial applicator's financial responsibility insurance certificate (FRIC)? (1) A commercial pesticide applicator's license shall not be issued until a properly executed financial responsibility insurance certificate is filed with the department which shall certify: (Forms to be supplied by the department).

(a) Name of insured (identical to name on application form)

(b) Address of insured

(c) Policy number

(d) Aircraft number(s) covered by the insurance (if applicable)

(e) Effective period

(f) Amount of insurance. Minimum requirements are:

(i) Public liability (personal injury) fifty thousand dollars; and property damage fifty thousand dollars; or

(ii) Alternately providing both public liability (personal injury), and property damage liability coverage within the same limit, providing such policy is issued in an amount of not less than one hundred thousand dollars.

(iii) Amount of deductible (if applicable): Maximum deductible, five thousand for all applicators.

(g) List of any pesticides or group of pesticides not covered by the policy.

(h) Acknowledgement of provisions for ten days' prior written notice of cancellation or reduction of the insurance coverage.

(2) The department may waive the requirements of this section, wholly or in part, if a properly executed surety bond in a form prescribed by the director is offered as evidence of financial responsibility, as provided for in RCW 17.21.160 and 17.21.170.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1520, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1520, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1530 What are the requirements for pesticide license renewals and penalties? (1) Except for the pesticide dealer license required under RCW 15-58-180, all pesticide licenses shall expire on the December 31st following their issuance:

(2) Pesticide renewal applications for licenses issued under the authority of chapter 17.21 RCW shall be filed on or before January 1st of the appropriate year.

(3) If an application for renewal of any pesticide license issued under the authority of chapter 17.21 RCW is not filed on or prior to January 1st following the expiration date of the license, a penalty shall be assessed as provided in RCW 17.21.140 and added to the original fee, and shall be paid by the applicant before the renewal license is issued.

(4) If an application for renewal of a pesticide dealer license issued under the authority of chapter 15.58 RCW is not filed on or before the master license expiration date, the master license delinquency fee shall be assessed under chapter 19.02 RCW and shall be paid by the applicant before the renewal license is issued.

(5) If an application for renewal of any license issued under the authority of chapter 15.58 RCW, other than the pesticide dealer license, is not filed on or before the expiration date of the license, penalty equivalent to the license fee shall be assessed and added to the original fee, and shall be paid by the applicant before the renewal license is issued.

(6) Nothing herein shall be construed to limit the department's ability, as otherwise provided by law, to deny a license, to condition license renewal, or to enforce violations of applicable laws, subsequent to the expiration of a license.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1530, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1530, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1540 What are the requirements for pesticide examinations? (1) An examination fee of ten dollars shall be paid prior to administration of any pesticide license examination at other than a regularly scheduled examination session. Scheduled exam sessions occur every Tuesday at the Olympia and Yakima pesticide management division offices and at other offices as scheduled. The department reserves the right to restrict the number of applicants examining at any given time.

(2) Any individual who fails any pesticide licensing examination twice shall be required to wait at least fourteen days before retaking that examination a third time. Subsequent testing shall be at the director's discretion.

(3) An applicant shall complete the application form for a pesticide license and pay the required license application fee prior to being given pesticide examinations, unless prior arrangements have been made.

(4) Pesticide examination scores shall not be released by the department until the license application fee has been paid.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1540, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58, 17.21 RCW. 00-22-073, § 16-228-1540, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1540, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1545 What are the pesticide licensing requirements? (1) All individuals licensed or required to be licensed as commercial pesticide applicators, commercial pesticide operators, private-commercial applicators, demonstration and research applicators, public operators, structural pest inspectors, pest control consultants and public pest control consultants must be certified, through examination, in all pest control classifications defined in subsection (3)(a) through (x) of this section in which they operate, inspect or consult. Additionally, commercial pesticide applicators must be licensed in all classifications that the business operates. Licensed applicators may directly supervise unlicensed applicators only in those classifications in which they have a valid certification.

(2) To qualify for any pesticide license listed in subsection (1) of this section, applicants, except the structural pest inspector, must pass a "laws and safety" examination or equivalent, that includes, but is not limited to, the following: The state and federal laws governing pesticide use and the regulating agencies; general pesticide uses and application techniques; safe use of pesticides; general pesticide labeling comprehension; environmental fate of pesticides, and appropriate storage and disposal of pesticides and their containers. Individuals holding valid, passing scores on the private applicator or dealer manager exam are exempt from this examination requirement. Structural pest inspectors conducting complete wood destroying organism inspections must pass a "structural pest inspector laws and standards" examination or equivalent that includes, but is not limited to, the legal requirements governing structural pest inspectors and the standards for conducting complete wood destroying organism inspections.

(3) License classifications.

(a) Agricultural weed: The control of weeds, except with soil fumigants, in all agricultural crops including forest environments, and in former agricultural lands now in a noncrop status.

(b) Rights of way weed: The control of weeds, including cut stumps, on, but not limited to, terrestrial rights of way locations such as roads and/or highways, railroads, power lines and irrigation ditches and to industrial sites, including, but not limited to, airports, industrial parks, and large parking areas.

(c) Turf and ornamental weed: The control of weeds (and moss), including cut stumps, in ornamental and turf situations, which includes, but is not limited to, golf courses, parks, schools, lawns, yards, gardens, hospitals, vacant lots and open noncrop waste areas.

(d) Structural and turf demossing: The control of moss on structures and turf.

(e) Stump treatment: The use of herbicides on cut stumps to control resprouting.

(f) Soil fumigation: The use of soil-applied fumigants on agricultural crops and noncrop land to control pests including weeds, insects and diseases.

(g) Sewer root: Control of roots in sewer lines.

(h) Agricultural insect and disease: The control of insects and diseases, except with soil fumigants, in agricultural crops including forest environments.

(i) Ornamental insect and disease: The control of insects and diseases in ornamental, turf and rights of way situations including, but not limited to, golf courses, parks, schools, lawns, yards, gardens, greenhouses, hospitals and rest homes. This includes, but is not limited to, the use of insecticides, miticides, fungicides, bacteriocides, molluscides and nematocides.

(j) Interior plantscaping: The control of insects and diseases in interior plantscapes.

(k) PCO general: The control of insects, spiders, birds, rodents and animal pests in and around, but not limited to, the following situations: Residences, public buildings and grounds, commercial buildings and grounds, disposal sites, animal feed lots and farmsteads, including buildings and transportation equipment.

(l) PCO structural: The control of structurally destructive pests including, but not limited to, fungus, termites, carpenter ants, carpenter bees and wood-boring beetles. This classification allows a licensee to perform specific wood destroying organism inspections.

(m) Structural pest inspector: Allows for the commercial inspection of buildings for structurally destructive pests, their damage and conditions conducive to their development. This classification is required to perform complete wood destroying organism inspections.

(n) Stored grain: The use of pesticides (including fumigants and rodenticides) in grain storing facilities and railcars.

(o) Fumigant: The use of fumigants only (such as methyl bromide and aluminum phosphide) on stored commodities.

(p) Seed treatment: The application of pesticides to seeds to control destructive insects and diseases.

(q) Sprout inhibitor: Use of a pesticide to control sprouting in stored potatoes.

(r) Livestock pest: The control of external and internal pests of animals, with the exception of viruses, including, but not limited to, beef cattle, dairy cattle, swine, sheep, horses, goats and poultry, and also treatment of livestock premises.

(s) Pest animal: The control of pest animals in agricultural situations.

(t) Aquatic: The control of aquatic pests in water areas including, but not limited to, canals, rivers, streams, lakes, ponds, marshes and pipe lines.

(u) Aquatic irrigation: Limited to the control of aquatic pests in irrigation district water delivery systems where the pesticide is applied directly into the water or enters the water due to the application of the pesticide. Pests include, but are not limited to, moss, algae, cattails, pond weeds and other emersed and submersed aquatic weeds.

(v) Public health: Application of pesticides by governmental employees and certain others in public health programs such as, but not limited to, mosquito control, rodent control and insect control in situations having medical and public health importance.

(w) Aquatic antifouling: Use of antifouling paints to control fouling organisms on marine vessels.

(x) Wood treatment: Use of wood preservatives for the control of wood damaging pests.

(4) All examinations required under this section shall be written and taken without the aid of any materials that contain information relevant to the exam content. Reading of exams by an individual other than the applicant is not permitted.

(5) A passing score of seventy percent is established for all the examinations required under this section. The department may establish separate passing scores for the examinations if a validated process is used. Passing scores are valid for obtaining a license in the calendar year in which the examination is taken plus the following calendar year.

(6) The department may waive any of the examination requirements contained in this section for any person holding a valid certification with similar classifications from an EPA or Canadian approved federal, state or provincial certification program with comparable examination and recertification standards.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1545, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-24-013, § 16-228-1545, filed 11/27/00, effective 12/28/00.]

WAC 16-228-1546 What are the requirements for a private applicator license? (1) To qualify for a private applicator license, an individual must pass a private applicator examination. The examination shall be written and taken without the aid of any materials that contain information relevant to the exam content. Reading of exams by an individual other than the applicant is not permitted. Individuals holding valid, passing scores on the laws and safety examination, or equivalent, or the dealer manager exam, and one of the classifications in WAC 16-228-1545 (3)(a) or (h) or the now retired statewide classification, are exempt from this examination requirement.

(2) Private applicators making aquatic applications to water that moves off their own or their employer's agricultural land must obtain the aquatic classification described in WAC 16-228-1545 (3)(t).

(3) A passing score of seventy percent is established for the examinations required under this section. The department may establish separate passing scores for the examinations if a validated process is used. Passing scores are valid for obtaining a license in the calendar year in which the examination is taken plus the following calendar year.

(4) The department may waive the examination requirements contained in this section for any person holding a valid certification with similar classifications from an EPA or Canadian approved federal, state or provincial certification program with comparable examination and recertification standards.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1546, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-24-013, § 16-228-1546, filed 11/27/00, effective 12/28/00.]

WAC 16-228-1547 What are the requirements for a dealer manager license? (1) To qualify for a dealer manager license, an individual must pass a dealer manager examination. The examination shall be written and taken without the aid of any materials that contain information relevant to the exam content. Reading of exams by an individual other than the applicant is not permitted.

(2) A passing score of seventy percent is established for the examination required under this section. The department may establish a separate passing score for the examination if a validated process is used. Passing scores are valid for obtaining a license in the calendar year in which the examination is taken plus the following calendar year.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1547, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-24-013, § 16-228-1547, filed 11/27/00, effective 12/28/00.]

WAC 16-228-1550 What are the requirements for apparatus display signs? (1) A certified applicator making a landscape application shall display the name and telephone number of the applicator or applicator's employer on any power equipment.

(2) A certified applicator making a right of way application shall display the name and telephone number of the applicator or the applicator's employer and the words "VEGETATION MANAGEMENT APPLICATION."

(3) Apparatus display signs shall be attached to and prominently displayed on the application apparatus and shall be clearly visible.

(4) Lettering of the apparatus display signs shall be, at a minimum, two inches in height and shall be printed in color contrasting to the background.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1550, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1550, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1555 Where must commercial applicator apparatus license plates and windshield identification be placed? (1) Apparatus license plates, as provided for in chapter 17.21 RCW, shall be attached to and prominently displayed on the apparatus for which they have been issued: Provided that an apparatus license plate may be affixed to a vehicle which contains the particular apparatus. Attached plates shall be clearly visible and in a location easily accessible for inspection by the department.

(2) Each vehicle involved in the operations of a certified commercial ground application business, which does not prominently display a department issued apparatus license plate on its exterior or on the specific apparatus when that apparatus is exteriorly visible, shall be required to have a department issued sticker affixed to the lower left side of the windshield.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1555, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1555, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1570 What are the circumstances when certification permits are used? (1) Private applicator certification, demonstration and research applicator certification, user permits and private-commercial applicator licenses shall be considered as certified applicator permits as provided for in RCW 17.21.030 and 15.58.040 (2)(h).

(2) User permits may be issued by the director as temporary applicator certification in emergency situations. User permits will be issued in a form prescribed by the director, which shall include the following:

(a) Permit number

(b) Date of issuance

(c) Expiration date, which shall be not longer than one year from the date of issuance

(d) Name and address of certified applicator

(e) Crop or site and area to which the pesticide will be applied

(f) Amount of pesticide obtained

(g) Any other information prescribed by the director.

(3) Pesticide dealers shall keep user permits for a period of one year from the date of issuance, and the director shall have access to these records upon request.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1570, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1570, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1585 Are ground maintenance persons exempt from licensing? Grounds maintenance persons are exempt from licensing requirements as a commercial pesticide applicator, as provided under chapter 17.21 RCW, only if they perform ground maintenance on an occasional basis not amounting to a regular occupation. Exempted persons shall only perform pesticide applications to the grounds of residential dwellings and shall only use home and garden products.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1585, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1585, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1590 What are the licensing requirements for pesticide dealers and dealer-manager businesses? (1) When more than one pesticide dealer is engaged in the business from the same outlet or location, each pesticide dealer shall obtain a license for said outlet or location.

(2) A licensed pesticide dealer manager shall be available to the staff, customers, and department representatives at all times that an outlet or location distributes pesticides. A dealer manager may be the designated dealer manager of more than one outlet or location only if the dealer manager can be physically present at both outlets or locations during all times of pesticide distribution and handling.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1590, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1590, filed 10/20/99, effective 11/20/99.]

Chapter 16-229 WAC

SECONDARY AND OPERATIONAL AREA CONTAINMENT FOR BULK PESTICIDES

WAC

16-229-010 Definitions.

WAC 16-229-010 Definitions. The definitions set forth in this section shall apply throughout this chapter unless the context otherwise requires:

(1) **"Approved air gap"** means a physical separation between the free-flowing end of a water supply pipeline and the overflow rim of an open or nonpressurized receiving vessel. To be an approved air gap, the separation must be at least:

(a) Twice the diameter of the supply piping measured vertically from the overflow rim of the receiving vessel, and in no case be less than one inch, when unaffected by vertical surfaces (sidewalls); or

(b) Threes time the diameter of the supply piping, if the horizontal distance between the supply pipe and a vertical surface (sidewall) is less than or equal to three times the diameter of the supply pipe, or if the horizontal distance between the supply pipe and intersecting vertical surfaces (sidewalls) is less than or equal to four times the diameter of the supply pipe and in no case less than one and one-half inches.

(2) **"Approved reduced pressure principle backflow prevention assembly (RPBA)"** means an RPBA of a make, model and size that is approved by the Washington state department of health.

(3) **"Appurtenances"** means all valves, pumps, fittings, pipes, hoses, metering devices, and mechanical devices which are connected to a storage container, or which are used to transfer a material into or out of such container.

(4) **"Bulk pesticide"** means any registered pesticide which is transported or held in an individual container in undivided quantities of greater than fifty-five U.S. gallons liquid measure or one hundred pounds net dry weight.

(5) **"Certified engineer"** means a licensed professional engineer, registered in the state of Washington in the discipline in which he/she is practicing.

(6) **"Department"** means the Washington state department of agriculture.

(7) **"Discharge"** means a spill, leak, or release, accidental or otherwise, from a storage container, container or appurtenance. It does not include a fully contained transfer of pesticide which is made pursuant to sale, storage, distribution or use.

(8) **"Dry pesticide"** means pesticide which is in solid form prior to any application or mixing for application, and includes formulations such as dusts, wettable powders, dry flowable powders, granules, and water dispersible granules.

(9) **"Liquid pesticide"** means pesticide in liquid form, and includes solutions, emulsions, suspensions, slurries, and pesticide rinsates.

(10) **"Mini bulk pesticide"** means an amount of liquid pesticide greater than fifty-five gallons but not exceeding five hundred gallons which is held in a single container designed for ready handling and transport, which has been filled by the original pesticide manufacturer or repackager, and to which no substance has been added by any person.

(11) **"Not technically feasible"** means compliance is not physically or technically possible or feasible, and/or compliance cannot be achieved without compromising operational safety, and/or significantly compromising operational access. Monetary cost of compliance alone shall not be sufficient for the department to determine that compliance is not technically feasible.

(12) **"Operational area"** means an area or areas where pesticides are transferred, loaded, unloaded, mixed, repackaged, refilled or where pesticides are cleaned, or rinsed from containers or application, handling, storage or transportation equipment.

(13) **"Operational area containment"** means any structure or system designed and constructed to intercept and

contain discharges, including storage container or equipment wash water, rinsates, and rainwater from the operational area(s).

(14) **"Permanent mixing/loading site"** means a site (location) at which more than three hundred gallons of liquid pesticide (formulated product) or three thousand pounds of dry pesticide or at which a total of fifteen hundred pounds of pesticides as active ingredients are being mixed, repackaged or transferred from one container to another within a calendar year: Provided, That wood preservative application systems already regulated by 40 CFR, Parts 264.570-575 and Parts 265.440-445 shall be exempt.

(15) **"Permanent storage facility"** means a location at which liquid bulk pesticide in a single container or aggregate quantities in excess of five hundred U.S. gallons or dry bulk pesticide in undivided quantities in excess of two thousand pounds is held in storage: Provided, That mini-bulk pesticide containers are exempt from this chapter.

(16) **"Pesticide"** means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant.

(d) For the purpose of establishing permanent mixing/loading site threshold values petroleum oils are exempt from this chapter.

(17) **"Primary containment"** means the storage of liquid or dry bulk pesticide in storage containers at a permanent storage facility.

(18) **"Rinsate"** means the liquid generated from the rinsing of any equipment or container that has come in direct contact with any pesticide, including: Recovered sedimentation, washwater, contaminated precipitation, or other contaminated debris.

(19) **"Secondary containment"** means a device or structure designed, constructed, and maintained to hold or confine a discharge of a liquid pesticide from a permanent storage facility.

(20) **"Storage container"** means a container, including a rail car, nurse tank or other mobile container, that is used or intended for the storage of bulk liquid or dry pesticide. It does not include a mobile container at a storage facility for less than fifteen days if this storage is incidental to the loading or unloading of a storage container at the bulk pesticide storage facility. Storage container does not include underground storage containers or surface impoundments such as lined ponds or pits.

(21) **"Substantially similar protection"** means alternative containment and management practices that prevent or control releases to the environment to the same or similar degree as the protections afforded by full compliance with this chapter.

(22) **"Temporary field storage"** means a storage container with the capacity to store two thousand five hundred gallons or less of bulk liquid pesticide that remains in the same location for no more than fourteen consecutive days in any six-month period. Provided, That temporary field storage containers used to store soil fumigants shall be allowed a maximum capacity of ten thousand gallons or less. Containers must be chemically compatible with the material, which is being stored. Such containers can remain in the same location for no more than fourteen consecutive days in any six-month period. Liquid bulk pesticide application tanks directly attached to an apparatus for the purpose of chemigation are exempt from this chapter.

(23) **"Washwater"** means the liquid generated from the rinsing of the exterior of any equipment, containers or secondary containment or operational areas which have or may have come in direct contact with any pesticide.

[Statutory Authority: RCW 15.58.040, 17.21.030, chapter 34.05 RCW. 03-09-034, § 16-229-010, filed 4/8/03, effective 5/9/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-23-074, § 16-229-010, filed 11/17/00, effective 12/18/00. Statutory Authority: RCW 15.54.800 and 15.58.040. 93-22-093 (Order 5018), § 16-229-010, filed 11/2/93, effective 3/1/94.]

Chapter 16-231 WAC
RESTRICTED USE HERBICIDES

WAC

16-231-107 Application of pesticides in Franklin County—Restricted use pesticides.

WAC 16-231-107 Application of pesticides in Franklin County—Restricted use pesticides. The following pesticides are declared to be restricted use pesticides in Areas 2A, 4A, and 6:

(1) Restricted use herbicides:

(a) Sulfonylurea herbicides (such as Glean, Telar, Finesse, Escort);

(b) Desiccants and defoliants (such as Paraquat, Diquat, Endothall);

(c) Glyphosate (such as Roundup, Landmaster);

(d) Phenoxy type herbicides (such as 2,4-D, MCPA);

(e) Dicamba (such as Banvel);

(f) Bromoxynil (such as Brominal, Buctril, Bronate).

(2) Restricted use insecticides:

All Category I insecticides with the signal words danger/poison on the label, except granular and pellet formulations.

[Statutory Authority: Chapters 17.21 and 34.05 RCW. 03-11-097, § 16-231-107, filed 5/21/03, effective 6/21/03. Statutory Authority: Chapters 17.21 and 15.58 RCW. 00-24-002, § 16-231-107, filed 11/22/00, effective 12/23/00.]

Chapter 16-237 WAC
COMMODITY STORAGE WAREHOUSES AND GRAIN DEALERS

WAC

16-237-170 Emergency storage situation.

WAC 16-237-170 Emergency storage situation. If the director determines that an emergency storage situation exists, a warehouse operator may forward warehouse receipted grain to other licensed warehouses for storage without canceling the depositor's warehouse receipt under the following conditions:

(1) The warehouse operator must:

(a) Obtain written permission from the depositor and/or the holder of the warehouse receipt before the grain is shipped.

(b) Notify the department before the grain is shipped.

(c) Have a warehouse receipt issued in his/her name from the receiving warehouse.

(d) Be back in compliance with the requirements described in RCW 22.09.250 within one hundred twenty days from the date of the first grain shipment.

(2) An extension of the one hundred twenty-day requirement in subsection (1)(d) of this section may be granted for government owned commodities.

[Statutory Authority: 2003 c 13, RCW 22.09.020(13) and chapter 34.05 RCW. 03-19-013, § 16-237-170, filed 9/5/03, effective 10/6/03. Statutory Authority: RCW 22.09.020(13). 00-21-043, § 16-237-170, filed 10/13/00, effective 11/13/00.]

Chapter 16-238 WAC

WSDA GRAIN INSPECTION PROGRAM—FEE SCHEDULE

WAC

16-238-010 through 16-238-110 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-238-010 Definitions. [Statutory Authority: RCW 22.09.790. 01-12-021, § 16-238-010, filed 5/25/01, effective 6/25/01.] Repealed by 03-12-040, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW.

16-238-020 Grain and commodity inspection points. [Statutory Authority: RCW 22.09.790. 01-12-021, § 16-238-020, filed 5/25/01, effective 6/25/01.] Repealed by 03-12-040, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW.

16-238-030 General provisions for assessment of fees. [Statutory Authority: RCW 22.09.790. 01-12-021, § 16-238-030, filed 5/25/01, effective 6/25/01.] Repealed by 03-12-040, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW.

16-238-060 Fees for official sampling, inspection, and/or weighing services under the United States Grain Standards Act. [Statutory Authority: RCW 22.09.790. 01-12-021, § 16-238-060, filed 5/25/01, effective 6/25/01.] Repealed by 03-12-040, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW.

16-238-070 Fees for official services under the Agricultural Marketing Act of 1946. [Statutory Authority: RCW 22.09.790. 01-12-021, § 16-238-070, filed 5/25/01, effective 6/25/01.] Repealed by 03-12-040, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW.

16-238-082 Fees for services performed under state regulation or standards or "as specified" by the applicant for service when no official standards exist. [Statutory Authority: RCW 22.09.790. 01-12-021, § 16-238-082, filed 5/25/01, effective 6/25/01.] Repealed by 03-12-040, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW.

16-238-090 Covered commodities. [Statutory Authority: RCW 22.09.790. 01-12-021, § 16-238-090, filed 5/25/01, effective 6/25/01.] Repealed by 03-12-040, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW.

16-238-100 Grades and standards. [Statutory Authority: RCW 22.09.790. 01-12-021, § 16-238-100, filed 5/25/01, effective 6/25/01.] Repealed by 03-12-040, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW.

16-238-110 Scales. [Statutory Authority: RCW 22.09.790. 01-12-021, § 16-238-110, filed 5/25/01, effective 6/25/01.] Repealed by 03-12-040, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW.

WAC 16-238-010 through 16-238-110 Repealed. See Disposition Table at beginning of this chapter.

Chapter 16-239 WAC

WSDA GRAIN INSPECTION PROGRAM—DEFINITIONS, STANDARDS, FEES AND CHARGES

(Formerly chapter 16-238 WAC)

WAC

16-239-010 Definitions.
16-239-020 Washington state grain and commodity inspection points.
16-239-030 Commodities covered by chapter 22.09 RCW.
16-239-040 Grades and standards adopted by Washington state.
16-239-050 Scale testing.
16-239-060 Guarantee of expenses.
16-239-061 Guaranteed staffing levels.
16-239-062 Additional fees to cover insufficient revenue at export locations.
16-239-063 Official commercial inspection services.
16-239-064 Calculating travel time, mileage and per diem.
16-239-065 Payment of fees and charges.
16-239-070 Basic WSDA grain program fees for service.
16-239-071 Straight time rate.
16-239-072 GIPSA/FGIS scale authorization fee.
16-239-073 Overtime and night shift rates.
16-239-074 Late notice fee.
16-239-075 Call-back fee.
16-239-076 Shift request fee.
16-239-077 Shift cancellation fee.
16-239-078 Four-hour minimum standby fee.
16-239-079 Service cancellation fee.
16-239-080 Fees for official sampling, inspecting, and/or weighing services under the United States Grain Standards Act.
16-239-0801 Fees for combination inspection and weighing services.
16-239-0802 Fees for official sampling and inspecting without weighing and fees for official sampling only.
16-239-0803 Fees for official Class X weighing services without an inspection.
16-239-0804 Fees for other official weighing services.
16-239-0805 Fees for inspecting submitted samples.
16-239-0806 Fees for factor analysis.
16-239-0807 Fees for official constituent analysis using near-infrared transmittance (NIRT) technology.
16-239-0808 Fees for qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA," "Fluorometric," or similar methods.
16-239-0809 Fees for stowage examination services on vessels or ocean-going barges.
16-239-0810 Fees for other stowage examination services.
16-239-0811 Fees for phytosanitary certification.
16-239-0812 Fees for miscellaneous services.
16-239-0813 Fees for other services under the United States Grain Standards Act.
16-239-090 Fees for performing official Agricultural Marketing Act of 1946 services.
16-239-0901 Fees for combination inspection and weighing services.
16-239-0902 Fees for official sampling and inspecting without weighing and fees for official sampling only.
16-239-0903 Fees for official weighing services without inspections.
16-239-0904 Fees for other official weighing services.
16-239-0905 Fees for inspection of submitted samples.
16-239-0906 Fees for factor analysis.
16-239-0907 Fees for qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA" or "Fluorometric" methods.
16-239-0908 Fees for stowage examination services on vessels or ocean-going barges.
16-239-0909 Fees for other stowage examination services.
16-239-0910 Fees for phytosanitary certification.
16-239-0911 Fees for miscellaneous services.
16-239-0912 Fees for other services under the Agricultural Marketing Act of 1946.
16-239-100 Fees for services performed under state regulation or standards and for services "as specified" by the applicant when no official standards exist.
16-239-1010 Fees for inspecting miscellaneous agricultural commodities under chapter 16-213 WAC.
16-239-1020 Fees for miscellaneous services.

16-239-1030 Fees for services not specifically identified in WAC 16-239-1010 and 16-239-1020.

WAC 16-239-010 Definitions. "Department" means the Washington state department of agriculture.

"Fee" means any charge made by the department for:

(1) Inspecting and handling any commodity; or

(2) Any service related to weighing or storing grains or commodities.

"GIPSA/FGIS" means the Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service.

"Official commercial inspection services" means a contractual agreement between the applicant and the department that includes, but is not limited to, the following:

(1) An applicant developed list or narrative that includes the specific inspection services and service scope they are requesting;

(2) An applicant developed timeline showing when specific inspection services must be performed by the department; and

(3) The specific inspection space and equipment that the applicant will provide at their expense.

"Overtime" means:

(1) Any time worked on Saturdays, Sundays, or holidays; and

(2) All time worked before or after regularly scheduled working hours on Monday through Friday.

"Ton" means two thousand pounds avoirdupois.

"USDA" means the United States Department of Agriculture.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-010, filed 5/30/03, effective 6/30/03.]

WAC 16-239-020 Washington state grain and commodity inspection points. The following cities are department-designated points for inspecting and weighing standardized grains, beans, peas, lentils and other commodities:

- Colfax
- Kalama
- Olympia
- Pasco
- Seattle
- Spokane
- Tacoma
- Vancouver.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-020, filed 5/30/03, effective 6/30/03.]

WAC 16-239-030 Commodities covered by chapter 22.09 RCW. Commodities covered under chapter 22.09 RCW with respect to sampling, inspection, weighing, and quality or constituent determinations include all:

(1) Grains with standards or inspection criteria established under the United States Grain Standards Act;

(2) Commodities with standards or inspection criteria established under the Agricultural Marketing Act;

(3) Commodities with standards or inspection criteria established under Washington state standards; and

(4) By-products resulting from conditioning or processing the grains and commodities listed in this section.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-030, filed 5/30/03, effective 6/30/03.]

WAC 16-239-040 Grades and standards adopted by Washington state. Washington state has adopted the following grades and standards:

(1) The grades and standards established by the United States Department of Agriculture from August 1, 1984, to the present that apply to all grains and commodities regulated by this chapter.

(2) The procedures to sample, grade, test and weigh grains and commodities, established by the regulations and instructions under the United States Grain Standards Act and the Agricultural Marketing Act of 1946.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-040, filed 5/30/03, effective 6/30/03.]

WAC 16-239-050 Scale testing. The United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service (USDA, GIPSA/FGIS) has delegated official scale testing and scale authorization authority to the department. All scales in Washington state under USDA, GIPSA/FGIS jurisdiction must comply with the following testing requirements:

(1) Scales must be tested and certified for accuracy at least twice each year by an authorized Washington state department of agriculture scale expert or a USDA, GIPSA/FGIS scale specialist.

(2) When tested by the department or by USDA, GIPSA/FGIS, a seal must be placed on the scales. This seal must be dated and must indicate approval or rejection.

(3) When scales are tested, copies of the test report must be:

(a) Forwarded to the USDA, GIPSA/FGIS;

(b) Maintained by the department; and

(c) Maintained at the facility where the scale is located.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-050, filed 5/30/03, effective 6/30/03.]

WAC 16-239-060 Guarantee of expenses. When service is requested that requires assigning personnel to a facility where the volume of work at the established fee will not cover the cost of providing the service, a guarantee of expenses is required.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-060, filed 5/30/03, effective 6/30/03.]

WAC 16-239-061 Guaranteed staffing levels. If the department has an adequate number of trained personnel, an applicant for services may contract with the department for guaranteed staffing levels at negotiated minimum hours and unit fees.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-061, filed 5/30/03, effective 6/30/03.]

WAC 16-239-062 Additional fees to cover insufficient revenue at export locations. (1) When the lot size or workload is of insufficient size to generate revenue equivalent to the per hour straight time fee per employee, an additional fee must be assessed.

(2) The purpose of the additional fee is to insure that the total revenue generated on a daily basis is equal to the per hour straight time fee per employee.

(3) Upon the applicant's written request, the additional fee may be established using the average hourly revenue generated at the worksite over the Monday through Sunday workweek (weekly averaging).

(4) Without a written request, the additional fee must be assessed on a daily basis.

Note: The weekly averaging computation uses the prior week's invoices for ship lots completed before the start of business on Monday. It does not include fees assessed for GIPSA/FGIS scale authorization, overtime, late notice, call-back, standby, shift request, or shift cancellation.`

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-062, filed 5/30/03, effective 6/30/03.]

WAC 16-239-063 Official commercial inspection services. The department may provide on-site official commercial inspection services, at the applicant's request, when all of the following conditions are met:

(1) Appropriate space, equipment and security must be provided by the applicant.

(2) The applicant must provide a written document fully describing the services requested.

(3) The department must be able to provide appropriate licensed personnel to accomplish the service requested.

(4) A guarantee of expenses is negotiated.

Note: The applicant must fully describe the requested services in writing so the department can determine appropriate staffing levels and develop a guarantee of expenses proposal.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-063, filed 5/30/03, effective 6/30/03.]

WAC 16-239-064 Calculating travel time, mileage and per diem. When department personnel perform services at locations other than department-designated grain and commodity inspection points, the applicant must pay the department:

(1) Travel time for each department employee from the established inspection point to the service location and return at the rates in effect at the time the service is performed.

(2) Mileage from the established inspection point to the service location and return for each vehicle involved. The mileage rate is assessed according to the state of Washington's general administration private vehicle mileage reimbursement rate in effect at the time the service is performed.

(3) If applicable, a per diem rate will be assessed for each department employee equal to the established state of Washington travel status per diem rates in effect at the time the service is performed.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-064, filed 5/30/03, effective 6/30/03.]

WAC 16-239-065 Payment of fees and charges. (1) All department fees and charges for services rendered are due within thirty days of the statement date.

(2) If the department does not receive payment within thirty days:

(a) Services may be withheld until the delinquent account is paid; or

(b) Cash payment for subsequent services may be required.

(3) The department assesses a penalty of twelve percent per annum on all delinquent account balances.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-065, filed 5/30/03, effective 6/30/03.]

WAC 16-239-070 Basic WSDA grain program fees for service. Basic WSDA grain program fees for service and related requirements are contained in WAC 16-239-071 through 16-239-079.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-070, filed 5/30/03, effective 6/30/03.]

WAC 16-239-071 Straight time rate. (1) Except for a GIPSA/FGIS scale authorization service, the department's per employee straight time rate is:

	Rate Per Hour
Effective June 30, 2003	$28.75
Effective July 1, 2003	$29.50

(2) The straight time rate is assessed when:

(a) No other fee, guarantee of expenses or contractual agreement exists; or

(b) It is specified in the schedule of fees; or

(c) The fees generated through the service provided are not equivalent to the straight time rate, per hour, per employee (including applicable supervisory and clerical employee hours).

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-071, filed 5/30/03, effective 6/30/03.]

WAC 16-239-072 GIPSA/FGIS scale authorization fee. (1) The department's per employee GIPSA/FGIS scale authorization fee is:

	Rate Per Hour
Effective June 30, 2003	$38.08
Effective July 1, 2003	$39.00

(2) The GIPSA/FGIS scale authorization fee, per hour, per employee is assessed when GIPSA/FGIS scale authorization services are requested or required.

(3) In addition to the hourly GIPSA/FGIS scale authorization fee; the department may assess travel time, mileage, per diem, overtime, late notice, call-back, standby and service cancellation fees.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-072, filed 5/30/03, effective 6/30/03.]

WAC 16-239-073 Overtime and night shift rates. (1) The department's per employee overtime and night shift rates are:

	Rate Per Hour
Effective June 30, 2003	$7.48
Effective July 1, 2003	$7.70

(2) In addition to regular inspection and weighing fees, the department will charge overtime and night shift rates per hour, per employee, including applicable supervisory and clerical employee hours, when a service is requested:

(a) Before or after regularly scheduled working hours, Monday through Friday; or

(b) During established meal periods on any shift; or

(c) Anytime on Saturdays, Sundays or holidays.

(3) When an applicant contracts for a permanent night shift, the overtime and night shift rates for the night shift will be waived after the initial seven-day notice period expires.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-073, filed 5/30/03, effective 6/30/03.]

WAC 16-239-074 Late notice fee. (1) The department's per employee late notice fee is:

	Rate Per Hour
Effective June 30, 2003	$4.98
Effective July 1, 2003	$5.12

(2)(a) Requests for service on Saturdays, Sundays, or holidays, or for work before or after regularly scheduled working hours, Monday through Friday, must be received by the inspection office no later than 2:00 p.m. of the last regularly scheduled working day before the date of the requested service. For example, the inspection office must receive a request for Saturday service by 2:00 p.m. of the preceding Friday.

(b) When the service request is not received by 2:00 p.m., the department will provide services if qualified employees are available.

(3)(a) Service requests beyond the normal scope or volume requested at an inspection site must be received by the inspection office no later than 2:00 p.m. of the last regularly scheduled working day before the requested date of service.

(b) The department will provide the service if adequate numbers of qualified employees are available.

(4) The late notice fee will be assessed only for those hours of the service that the department is able to staff.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-074, filed 5/30/03, effective 6/30/03.]

WAC 16-239-075 Call-back fee. (1) The department's call-back fee is:

	Fee Per Employee
Effective June 30, 2003	$25.01
Effective July 1, 2003	$25.80

(2) When the department receives requests for services after the close of business on a regular scheduled working day and sufficient numbers of qualified staff are available to provide the requested service, the department will assess a call-back fee for each employee scheduled for that shift or service request.

(3) The department will assess one call-back fee for each employee scheduled for a shift on a Saturday, Sunday, or holiday.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-075, filed 5/30/03, effective 6/30/03.]

WAC 16-239-076 Shift request fee. (1) The department's per employee shift request fee is:

	Rate Per Hour
Effective June 30, 2003	$7.48
Effective July 1, 2003	$7.70

(2) Requests for establishing a night or graveyard shift must be given to the department in writing. The requested shift will begin seven days after the department receives the applicant's written request.

(3) If the night or graveyard shift begins before the seven-day notice period has expired, the department will assess a shift request fee for every hour an employee is assigned to the new shift(s) beginning with the day the employee is assigned until the seven-day notice expires.

(4) In addition to paying shift request fees for night or graveyard shifts, those locations where the department cannot maintain full-time staffing due to inadequate workloads or inconsistent work schedules are assessed shift request fees for day shifts.

(5)(a) At locations where department staffing has been reduced below the full-time permanent day shift numbers due to a lack of work, an applicant requesting a day shift that begins before the seven-day notice period has expired must pay a shift request fee for every hour that a department employee is assigned to the location.

(b) The assessment begins when the department employee is assigned and ends when the seven-day notice for the assigned employee expires.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-076, filed 5/30/03, effective 6/30/03.]

WAC 16-239-077 Shift cancellation fee. (1) The department's per employee shift cancellation fee is:

	Rate Per Hour
Effective June 30, 2003	$7.48
Effective July 1, 2003	$7.70

(2)(a) All requests to cancel a previously requested night or graveyard shift must be given to the department, in writing, at least twenty-one days before the cancellation date.

(b) If the applicant does not give the department the full twenty-one day notice, a shift cancellation fee will be assessed for all hours between the time the assigned staff would have worked and the time when the twenty-one day notice expires.

(3) Locations that are not routinely staffed due to inconsistent schedules or are inadequately staffed due to a lack of work, will be assessed the shift cancellation fee for all shifts where the full twenty-one day cancellation notice is not given.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-077, filed 5/30/03, effective 6/30/03.]

WAC 16-239-078 Four-hour minimum standby fee. (1) The department's per employee four-hour minimum standby fee is:

	Rate Per Employee Per Hour
Effective June 30, 2003	$28.75
Effective July 1, 2003	$29.50

(2) When a service is requested before or after the inspection office's established standard Monday through Friday workday or anytime on Saturdays, Sundays, or holidays and the service cannot be performed through no fault of the department, the per employee four-hour minimum standby fee will be assessed.

(3) The per employee four-hour minimum standby fee is assessed when service is requested at a location not routinely staffed on a Monday through Friday basis if the department is able to adequately staff qualified personnel to perform the service and, through no fault of the department, the service cannot be performed.

(4) When a requested service begins or ends within two hours of the regular starting or ending time of a shift and the service cannot be performed through no fault of the department, the per employee standby fee is assessed on a per hour basis.

(5) The per employee standby fee is assessed for all hours staffed at the request of the applicant over the four-hour minimum.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-078, filed 5/30/03, effective 6/30/03.]

WAC 16-239-079 Service cancellation fee. (1) The department's per employee service cancellation fee is based upon a four-hour minimum at the straight time rate:

	Rate Per Employee Per Hour
Effective June 30, 2003	$28.75
Effective July 1, 2003	$29.50

(2) The department will assess a per employee service cancellation fee when service is requested:

(a) Before or after working hours, Monday through Friday, or anytime on a Saturday, Sunday or holiday, and a cancellation of the request is not received by 2:00 p.m. of the last regularly scheduled working day before the service is scheduled to begin; or

(b) At locations that are not routinely staffed on a Monday through Friday basis because of inconsistent schedules or are inadequately staffed due to a lack of work and a service cancellation request is not received at the inspection office by 2:00 p.m. of the last regularly scheduled working day before the requested service is scheduled to begin.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-079, filed 5/30/03, effective 6/30/03.]

WAC 16-239-080 Fees for official sampling, inspecting, and/or weighing services under the United States Grain Standards Act. WAC 16-239-0801 through 16-239-0812 contain the specific WSDA fees for performing official sampling, inspecting, and/or weighing services under the United States Grain Standards Act.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-080, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0801 Fees for combination inspection and weighing services. Table 1 contains the fees for performing combination inspection and weighing services.

Table 1
Fees for Combination Inspection and Weighing Services

Inspection and Weighing Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Barges	$0.132 per ton	$0.136 per ton
Bin transfers	$0.132 per ton	$0.136 per ton
Vessels (export and domestic ocean-going)		
• First 3,000,000 short tons per fiscal year*	$0.138 per ton	$0.142 per ton
• From 3,000,001 to 5,000,000 short tons per fiscal year*	$0.131 per ton	$0.131 per ton
• From 5,000,001 to 6,500,000 short tons per fiscal year*	$0.128 per ton	$0.128 per ton
• Over 6,500,000 short tons per fiscal year*	$0.120 per ton	$0.120 per ton
*Note: The tonnage assessment is applied in full lot increments and is reset at the beginning of each fiscal year. The fiscal year begins July 1 and ends the following June 30.		
Unit trains	$0.132 per ton	$0.136 per ton

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0801, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0802 Fees for official sampling and inspecting without weighing and fees for official sampling only. Table 2 contains the fees for performing official sampling and inspecting services without weighing and the fees for performing only official sampling services.

Table 2
Fees for Official Sampling and Inspecting Without Weighing and Fees for Official Sampling Only

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Car lots sampled by USDA approved diverter-type mechanical samplers, including per car for each car lot incorporated into a batch grade	$16.52 per car	$17.00 per car

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Car lots, sampled by USDA approved grain trier, original inspections, subsequent original inspections, and new sample reinspections	$25.82 per car	$26.50 per car
Truck lots, sampled by approved grain trier, original or new sample reinspections	$16.31 per truck	$16.75 per truck
Reinspections based on official file sample, except Canola*	$9.81 per sample	$10.00 per sample
Reinspections, Canola	$28.75 per hour	$29.50 per hour
*Note: Fees for laboratory determination of erucic acid, and/or glucosinolate, and/or oil content of Canola are equivalent to the USDA published fees.		
Bagged grains*	$0.069 per hundredweight (cwt)	$0.071 per hundredweight (cwt)
*Note: Factor-only reinspections available at the established reinspection fee, contingent on GIPSA/FGIS approval of the factor-only reinspection service option.		

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0802, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0803 Fees for official Class X weighing services without an inspection. Table 3 contains the fees for performing official Class X weighing services without an inspection.

Table 3
Fees for Official Class X Weighing Services Without an Inspection

Weighing Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Cars, barges, or vessels	$0.115 per ton	$0.118 per ton
Bin transfers	$0.115 per ton	$0.118 per ton
Trucks, including sea van type containers	$8.18 per weight lot	$8.44 per weight lot

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0803, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0804 Fees for other official weighing services. Table 4 contains the fees for performing other official weighing services.

Table 4
Fees for Other Official Weighing Services

Weighing Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Class Y weighing services	$28.75 per hour, per employee	$29.50 per hour, per employee
Check weighing of bagged grain	$28.75 per hour, per employee	$29.50 per hour, per employee

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0804, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0805 Fees for inspecting submitted samples. Table 5 contains the fees for performing inspections of submitted samples.

Table 5
Fees for Inspecting Submitted Samples

Inspection Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Analysis under the United States Grain Standards Act, except Canola*	$8.26 per inspection	$8.50 per inspection
*Note: Submitted sample certificates of grade for barley may show, on request, dockage to the nearest one-tenth percent without additional charge.		
Reinspections based on official file sample, except Canola	$9.81 per sample	$10.00 per sample
Canola*	$15.49 per inspection	$15.75 per inspection
Reinspections, Canola	$28.75 per hour	$29.50 per hour
*Note: Fees for laboratory determination of erucic acid, and/or glucosinolate, and/or oil content of Canola are equivalent to the USDA published fees.		
Note: When submitted samples are not of sufficient size to allow for official grade analysis, obtainable factors may be provided, upon request of the applicant, at the factor-only rate shown in Table 6 of WAC 16-239-0806.		

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0805, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0806 Fees for factor analysis. Table 6 contains the fees for performing factor analysis services.

Table 6
Fees for Factor Analysis Services

Factor Analysis Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Nongrade determining factors, requested by applicant, in addition to the original inspection or ship-loading sublot analysis	$2.68 per factor	$2.75 per factor
Grade determining factor-only analysis, except Waxy Corn analysis	$2.68 per factor	$2.75 per factor
Waxy Corn analysis	$13.84 per analysis	$14.25 per analysis
Note: Applicants requesting four or more USGSA grade determining factors on a submitted sample will be assessed the submitted sample rate shown in WAC 16-239-0805.		

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0806, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0807 Fees for official constituent analysis using near-infrared transmittance (NIRT) technology. Table 7 contains the fees for performing official constituent analysis using near-infrared transmittance (NIRT) technology.

Table 7
Fees for Official Constituent Analysis using Near-Infrared Transmittance (NIRT) Technology

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
In conjunction with official inspection for grade	$6.71 per test	$6.90 per test
Not in conjunction with official inspection for grade	$9.08 per test	$9.25 per test
Reinspection based on official file sample*	$9.08 per test	$9.25 per test
*Note: When a reinspection service includes a request for a new sample, the appropriate sampling fee in WAC 16-239-0802, Table 2, will be assessed in addition to the reinspection fee cited in Table 7.		

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0807, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0808 Fees for qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA," "Fluorometric," or similar methods. Table 8 contains the fees for performing qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA" or "Fluorometric" methods.

Table 8
Fees for Qualitative or Quantitative Testing for the Presence of Mycotoxins Using USDA Approved "ELISA" or "Fluorometric" Methods

Testing Service Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Official sample or new sample reinspection, including official sampling	$37.50 per test	$37.50 per test
Submitted samples and reinspections based on official file sample	$28.75 per test	$29.50 per test
Note: Mycotoxin testing services using thin layer chromatography or equivalent USDA approved technology are available at the USDA published rate.		

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0808, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0809 Fees for stowage examination services on vessels or ocean-going barges. Table 9 contains the fees for performing stowage examination services on vessels or ocean-going barges.

Table 9
Fees for Stowage Examination Services on Vessels or Ocean-Going Barges

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Initial inspection, five hold/stowage space/tank maximum	$130.66 minimum fee	$134.50 minimum fee
Initial inspection, above five hold/stowage space/tank maximum	$26.13 per hold/stowage space/tank	$26.90 per hold/stowage space/tank
Return to hold/stowage space/tank during inspection service	$26.13 per hold/stowage space/tank	$26.90 per hold/stowage space/tank
Subsequent inspections, three hold/stowage space/tank maximum	$78.39 minimum fee	$80.70 minimum fee
Subsequent inspection, above three hold/stowage space/tank maximum	$24.78 per hold/stowage space/tank	$25.57 per hold/stowage space/tank

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Travel time, midstream or at a non-grain loading berth, two-hour minimum per inspection request	$28.75 per hour, per employee	$29.50 per hour, per employee
Stowage examination services requested on a Saturday, Sunday, or holiday, four-hour minimum	$28.75 per hour, per employee	$29.50 per hour, per employee
Note: At anchor stowage examination services will be conducted at the convenience of the designated grain inspection office during daylight hours under safe working and weather conditions. The applicant is responsible for securing licensed tug or water taxi to provide safe transportation to and from the anchor point. Two vessel or ship's agent representatives will accompany each WSDA inspector performing stowage examination services. Appropriate fees contained in WAC 16-239-071 through 16-239-079 may be assessed in addition to the appropriate fees in Table 9.		

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0809, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0810 Fees for other stowage examination services. Table 10 contains the fees for performing other stowage examination services.

Table 10
Fees for Other Stowage Examination Services

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Sea van containers, when not in conjunction with check loading service	$8.77 per inspection	$9.00 per inspection
Railcars, trucks, or other containers, not in conjunction with loading	$8.77 per inspection	$9.00 per inspection
Note: Fees for stowage examination services will not be assessed when official sampling and inspection, or official weighing occurs at the time of loading, unless the applicant requests an official stowage examination certificate. The stowage examination requirement associated with service at the time of loading may be waived in accordance with GIPSA/FGIS Directive 9020.1.		

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0810, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0811 Fees for phytosanitary certification. Table 11 contains the fees for providing phytosanitary certification.

Table 11
Fees for Phytosanitary Certification

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
In conjunction with official inspection*	$7.36 per certificate	$7.50 per certificate
*Note: Hourly fees may be assessed for research necessary to produce the requested certificate.		
When not in conjunction with official inspection, add required sampling time	$28.75 per hour, per employee	$29.50 per hour, per employee

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0811, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0812 Fees for miscellaneous services. Table 12 contains the fees for performing miscellaneous services.

Table 12
Fees for Miscellaneous Services

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Ship composite samples	Initial set of three provided without cost to the applicant	Initial set of three provided without cost to the applicant
Ship composite samples, in excess of the initial three, when requested in advance	$5.68 per sample	$5.75 per sample
Divided original certificates or letterhead statements	$1.63 per certificate or letterhead statement	$1.68 per certificate or letterhead statement
Extra copies of certificates or letterhead statements	$3.26 per certificate or letterhead statement	$3.36 per certificate or letterhead statement
Facsimile transmissions	$1.07 per page	$1.10 per page
Mailing of samples	At cost	At cost
Sample pickup fee, on department established routes	$0.64 per sample	$0.66 per sample

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0812, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0813 Fees for other services under the United States Grain Standards Act. (1) Fees for other services under the United States Grain Standards Act not contained in WAC 16-239-0801 through 16-239-0812 are contained in WAC 16-239-071 through 16-239-079 and/or at the published rates of the laboratory or organization providing the official service or analysis.

(2) An applicant may be required to provide the necessary supplies and/or equipment when requesting a new or special type of analysis.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0813, filed 5/30/03, effective 6/30/03.]

WAC 16-239-090 Fees for performing official Agricultural Marketing Act of 1946 services. WAC 16-239-0901 through 16-239-0911 contains the specific WSDA fees for performing official Agricultural Marketing Act of 1946 services.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-090, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0901 Fees for combination inspection and weighing services. Table 13 contains the fees for performing combination inspection and weighing services.

Table 13
Fees for Combination Inspection and Weighing Services

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Bulk commodities under federal or state standards	$0.138 per ton	$0.142 per ton
Bulk commodities, under federal, state or applicant defined factor analysis	$0.138 per ton	$0.142 per ton
Sample and weigh grain by-products into thirty ton maximum containers, including stowage examination	$16.31	$16.80

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0901, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0902 Fees for official sampling and inspecting without weighing and fees for official sampling only. Table 14 contains the fees for performing official sampling and inspecting services without weighing and the fees for performing only official sampling services.

Table 14
Fees for Official Sampling and Inspecting Without Weighing and Fees for Official Sampling Only

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Car lots sampled by USDA approved diverter-type mechanical samplers*	$16.52 per car	$17.00 per car
Car lots, sampled by USDA approved grain trier	$25.82 per car	$26.50 per car
Truck lots or container lots, sampled by USDA approved grain trier	$16.31 per truck or container lot	$16.75 per truck or container lot
Inspection of bagged commodities*	$0.069 per hundredweight (cwt)	$0.071 per hundredweight (cwt)
*Note: A minimum fee equivalent to the hourly fee cited in WAC 16-239-071 is assessed for bagged and bulk commodity sampling and inspection, or sampling only services.		

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0902, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0903 Fees for official weighing services without inspections. Table 15 contains the fees for performing official weighing services without inspections.

Table 15
Fees for Official Weighing Services without Inspections

Weighing Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
From elevator to conveyance, except trucks	$0.115 per ton	$0.118 per ton
From conveyance to elevator, except trucks	$0.115 per ton	$0.118 per ton
Bin transfers	$0.115 per ton	$0.118 per ton
Trucks	$8.18 per weight lot	$8.44 per weight lot

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0903, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0904 Fees for other official weighing services. Table 16 contains the fees for performing other official weighing services.

Table 16
Fees for Other Official Weighing Services

Weighing Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Check weighing of bagged commodities	$28.75 per hour, per employee	$29.50 per hour, per employee

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0904, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0905 Fees for inspection of submitted samples. Table 17 contains the fees for inspecting submitted samples.

Table 17
Fees for Inspecting Submitted Samples

Inspection Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Standardized commodities, thresher run or processed	$15.49 per sample	$15.75 per sample
Commodities inspected under GIPSA/FGIS factor-only inspection procedures	$15.49 per sample	$15.75 per sample
Note: Fees for laboratory determinations of commodity constituents are assessed at the USDA published rate or at cost from the service provider.		

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0905, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0906 Fees for factor analysis. Table 18 contains the fees for performing factor analysis services.

Table 18
Fees for Factor Analysis Services

Factor Analysis Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Nongrade determining factors requested by applicant, in addition to the original inspection results, except moisture	$2.68 per factor	$2.75 per factor
Moisture only	$5.68 per determination	$5.75 per determination
Nongrade determining factors requested in ship loading sublot analysis	$2.68 per factor	$2.75 per factor
Factor-only determinations	$3.26 first two factors	$3.36 first two factors
Note: Additional factors are available at a fee of $2.68 per factor effective June 30, 2003, and $2.75 per factor effective July 1, 2003. Applicants requesting more than five factors will pay the appropriate submitted sample fee in WAC 16-239-0905 for the requested factors. When the size of a submitted sample is insufficient to perform official grade analysis, factor-only analysis is available but must be requested by the applicant.		

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0906, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0907 Fees for qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA" or "Fluorometric" methods. Table 19 contains the fees for performing qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA" or "Fluorometric" methods.

Table 19
Fees for Qualitative or Quantitative Testing for the Presence of Mycotoxins Using USDA Approved "ELISA" or "Fluorometric" Methods

Testing Service Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Official samples and new sample reinspections, including official sampling	$37.50 per test	$37.50 per test
Submitted samples and reinspections based on official file sample	$28.75 per test	$29.50 per test
Note: Mycotoxin testing services using thin layer chromatography or equivalent USDA approved technology are available at the USDA published rate.		

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0907, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0908 Fees for stowage examination services on vessels or ocean-going barges. Table 20 contains the fees for performing stowage examination services on vessels or ocean-going barges.

Table 20
Fees for Stowage Examination Services on Vessels or Ocean-Going Barges

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Initial inspection, five hold/stowage space/tank maximum	$130.66 minimum fee	$134.50 minimum fee
Initial inspection, above five hold/stowage space/tank maximum	$26.13 per hold/stowage space/tank	$26.90 per hold/stowage space/tank
Return to hold/stowage space/tank during inspection service	$26.13 per hold/stowage space/tank	$26.90 per hold/stowage space/tank
Subsequent inspections, three hold/stowage space/tank maximum	$78.39 minimum fee	$80.70 minimum fee
Subsequent inspection, above three hold/stowage space/tank maximum	$24.78 per hold/stowage space/tank	$25.57 per hold/stowage space/tank
Travel time, midstream or at a non-grain loading berth, two-hour minimum per inspection request	$28.75 per hour, per employee	$29.50 per hour, per employee
Stowage examination services requested on a Saturday, Sunday, or holiday, four-hour minimum	$28.75 per hour, per employee	$29.50 per hour, per employee
Note: At anchor stowage examination services will be conducted at the convenience of the designated grain inspection office during daylight hours under safe working and weather conditions. The applicant is responsible for securing licensed tug or water taxi to provide safe transportation to and from the anchor point. Two vessel or ship's agent representatives will accompany each WSDA inspector performing stowage examination services. Appropriate fees contained in WAC 16-239-071 through 16-239-079 may be assessed in addition to the appropriate fees in Table 20.		

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0908, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0909 Fees for other stowage examination services. Table 21 contains the fees for performing other stowage examination services.

Table 21
Fees for Other Stowage Examination Services

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Sea van containers, when not in conjunction with check loading service	$8.77 per inspection	$9.00 per inspection
Railcars, trucks, or other containers	$8.77 per inspection	$9.00 per inspection

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0909, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0910 Fees for phytosanitary certification. Table 22 contains the fees for providing phytosanitary certification.

Table 22
Fees for Phytosanitary Certification

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
In conjunction with official inspection*	$7.36 per certificate	$7.50 per certificate
*Note: Hourly fees may be assessed for research necessary to produce the requested certificate.		
When not in conjunction with official inspection, add required sampling time	$28.75 per hour, per employee	$29.50 per hour, per employee

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0910, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0911 Fees for miscellaneous services. Table 23 contains the fees for performing miscellaneous services.

Table 23
Fees for Miscellaneous Services

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Falling numbers determinations	$13.84 per determination	$14.25 per determination
Liquefaction number	$0.53 per determination	$0.54 per determination
Divided original certificates or letterhead statements	$1.63 per certificate or letterhead statement	$1.68 per certificate or letterhead statement
Extra copies of certificates or letterhead statements	$3.26 per certificate or letterhead statement	$3.36 per certificate or letterhead statement

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Sanitation inspections at commodity processing sites, initial inspection	No charge	No charge
Sanitation inspections, return to failed facility, four-hour minimum	$28.75 per hour, per employee	$29.50 per hour, per employee
Sampling of processed commodities, two-hour minimum	$28.75 per hour, per employee	$29.50 per hour, per employee
Note: Laboratory fees associated with processed commodity lots will be assessed per the GIPSA/FGIS rates. Postage and other costs for sample delivery to the appropriate analyzing laboratory will be assessed to the applicant for service.		
Facsimile transmissions	$1.07 per page	$1.10 per page
Mailing of samples	At cost	At cost
Sample pickup fee, on department established routes	$0.64 per sample	$0.66 per sample

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0911, filed 5/30/03, effective 6/30/03.]

WAC 16-239-0912 Fees for other services under the Agricultural Marketing Act of 1946. (1) Fees for other services under the Agricultural Marketing Act of 1946 not contained in WAC 16-239-0901 through 16-239-0911 are contained in WAC 16-239-071 through 16-239-079 and/or at the published rates of the laboratory or organization providing the official service or analysis.

(2) An applicant may have to provide the necessary supplies and/or equipment when requesting a new or special type of analysis.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0912, filed 5/30/03, effective 6/30/03.]

WAC 16-239-100 Fees for services performed under state regulation or standards and for services "as specified" by the applicant when no official standards exist. Department fees for services performed under state regulation or standards and for services "as specified" by the applicant when no official standards exist are contained in WAC 16-239-1010 through 16-239-1030.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-100, filed 5/30/03, effective 6/30/03.]

WAC 16-239-1010 Fees for inspecting miscellaneous agricultural commodities under chapter 16-213 WAC. Table 24 contains the fees for inspecting miscellaneous agricultural commodities under chapter 16-213 WAC.

Table 24
Fees for Inspecting Miscellaneous Agricultural Commodities under Chapter 16-213 WAC

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Submitted sample inspection, cultivated buckwheat, Washington state grade or for factor-only analysis	$8.18 per sample	$8.44 per sample
Bulk car lots, cultivated buckwheat, sampled by USDA approved diverter-type mechanical samplers	$16.52 per car	$17.00 per car
Bulk car lots, cultivated buckwheat, sampled by USDA approved grain trier	$25.82 per car	$26.50 per car
Bulk truck lots or container lots, cultivated buckwheat, sampled by USDA approved grain trier	$16.31 per truck or container lot	$16.75 per truck or container lot
Cracked corn, corn screenings, and mixed grain screenings sampling, inspection and weighing services	At applicable fees contained in WAC 16-239-0801 through 16-239-0812	At applicable fees contained in WAC 16-239-0801 through 16-239-0812
Bagged commodities	$0.069 per hundredweight (cwt)	$0.071 per hundredweight (cwt)

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-1010, filed 5/30/03, effective 6/30/03.]

WAC 16-239-1020 Fees for miscellaneous services. Table 25 contains the fees for performing miscellaneous services.

Table 25
Fees for Miscellaneous Services

Services Provided	Fees for Services Provided
Unofficial constituent analysis using near-infrared transmittance (NIRT) technology	Available at the rates in WAC 16-239-0807, Table 7
The following may be available as unofficial services: • Laboratory analysis of commodities covered in WAC 16-239-1010; or • Analysis of constituents or conditions of grains or commodities not provided for in the official standards or specifically addressed in WAC 16-239-0801 through 16-239-0812 or WAC 16-239-0901 through 16-239-0911	If available, these services will be provided under the appropriate rates in WAC 16-239-071 through 16-239-079 and/or at the published rates of the laboratory or organization providing the service or analysis.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-1020, filed 5/30/03, effective 6/30/03.]

WAC 16-239-1030 Fees for services not specifically identified in WAC 16-239-1010 and 16-239-1020. (1) Services not specifically identified in WAC 16-239-1010 and 16-239-1020 may be provided under the appropriate fees in WAC 16-239-071 through 16-239-079 and/or at the published rates of the laboratory or organization providing the service or analysis.

(2) An applicant may have to provide the necessary supplies and/or equipment when requesting a new or special type of analysis.

[Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-1030, filed 5/30/03, effective 6/30/03.]

Chapter 16-250 WAC
COMMERCIAL FEED RULES

WAC

16-250-001 Effective date.
16-250-005 Commercial feed regulated by this chapter.
16-250-010 Commercial feed terms and definitions.
16-250-015 Feed ingredient names and definitions.
16-250-018 Customer-formula feed labeling required.
16-250-020 Label information and recordkeeping requirements for customer-formula feed.
16-250-028 Commercial feed labeling required except customer-formula feed.
16-250-030 Recordkeeping requirements and label information required on all commercial feed labels except customer-formula feed.
16-250-035 Format required for all commercial feed labels except customer-formula feed.
16-250-040 Product or brand name label information required for all commercial feeds except customer-formula feed.
16-250-042 Label information required when a drug is used in commercial feed.
16-250-045 Purpose of feed statement requirements for commercial feed, except grain mixture feeds.
16-250-050 Guarantee requirements that apply to WAC 16-250-052 through 16-250-065.
16-250-051 Exemptions from the guarantees required in WAC 16-250-052 through 16-250-063.
16-250-052 Guarantees for all swine commercial feed except customer-formula feed.
16-250-053 Guarantees for all poultry commercial feed (broilers, layers and turkeys) except customer-formula feed.
16-250-054 Guarantees for all beef cattle commercial feed except customer-formula feed.
16-250-055 Guarantees for all dairy cattle commercial feed except customer-formula feed.
16-250-056 Guarantees for all equine commercial feed except customer-formula feed.
16-250-057 Guarantees for all goat and sheep commercial feed except customer-formula feed.
16-250-058 Guarantees for all duck and goose commercial feed except customer-formula feed.
16-250-059 Guarantees for all fish commercial feed except customer-formula feed and specialty pet food.
16-250-060 Guarantees for all rabbit commercial feed except customer-formula feed.
16-250-063 Guarantees for commercial feeds for animal species not specified in WAC 16-250-052 through 16-250-060 or in chapter 16-252 WAC, except customer-formula feed.
16-250-065 Guarantees for grain mixture commercial feeds, except customer-formula feed.
16-250-067 Guarantees for commercial feed sold primarily for sugar content.
16-250-068 Guarantees for vitamin/mineral premix and base mix commercial feed.
16-250-069 Expression of guarantees—Expressed as is.
16-250-070 Expression of guarantees—Sliding-scale method prohibited.
16-250-071 Expression of guarantees—Protein, amino acids, fat, and fiber.
16-250-072 Expression of guarantees—Minerals.
16-250-073 Expression of guarantees—Minimum vitamin content.
16-250-074 Expression of guarantees—Drugs.
16-250-075 Expression of guarantees and special requirements—Commercial feeds containing any added nonprotein nitrogen.
16-250-076 Expression of guarantees—Microorganisms and enzymes.
16-250-080 Substantiating nutritional suitability of commercial feed except for customer-formula feed.
16-250-090 Feed ingredient statement terms and recordkeeping requirements.
16-250-095 Drug and feed additive requirements.
16-250-100 Directions for use and precautionary statement requirements.
16-250-110 Screenings.
16-250-120 Adulteration of feed.
16-250-140 Use of artificial coloring.
16-250-150 Reusing bags, totes, and containers.
16-250-155 Tonnage fee requirements.
16-250-160 Commercial feed license application requirements.
16-250-170 Commercial feed label submission requirements.
16-250-180 Good manufacturing practices adopted.

WAC 16-250-001 Effective date. Chapter 16-250 WAC, commercial feed rules becomes effective on July 1, 2004.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-001, filed 11/19/03, effective 7/1/04.]

WAC 16-250-005 Commercial feed regulated by this chapter. (1) Commercial feed for beef cattle, dairy cattle, equine, goats and sheep, chickens and turkeys, ducks and geese, fish, rabbits, swine, and other animals not specifically regulated under chapter 16-252 WAC are regulated by this chapter.

(2) Chapter 16-252 WAC (Commercial feed rules: Pet food and specialty pet food) regulates pet food and specialty pet food except for customer-formula food.

(a) Where a conflict occurs between the provisions of chapter 16-252 WAC and those of this chapter, the regulations in chapter 16-252 WAC take precedence.

(b) Where a commercial pet food and/or specialty pet food issue arises on which chapter 16-252 WAC is silent and a provision in this chapter addresses the issue, then this chapter must be followed. The department expects such situations will be rare.

Note: Processed animal waste as a commercial feed is regulated under chapter 16-256 WAC.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-005, filed 11/19/03, effective 7/1/04.]

WAC 16-250-010 Commercial feed terms and definitions. Except for the specific terms and definitions contained in this section or in RCW 15.53.901, the terms and definitions used in reference to commercial feeds, in this chapter, are the official feed terms adopted by the Association of American Feed Control Officials (AAFCO) and published in the association's official publication. Throughout these rules where the Association of American Feed Control Officials (AAFCO) official publication is referred to, the reference is to the *2003 Official Publication*.

Note: A copy of the official publication is on file with the department. Copies may be purchased from AAFCO Assistant Secretary Treasurer; P.O. Box 478 Oxford, IN 47971.

"Animal wastes" means a material composed of excreta, with or without bedding materials and/or animal drugs, collected from poultry, ruminants or other animals except humans.

"Canned" means feed that has been processed, packaged, sealed, and sterilized for preservation in cans, pouches, or similar containers.

"Commercial feed" means all materials or combinations of materials that are distributed or intended for distribution for use as feed or for mixing in feed, unless such materials are specifically exempted. The following commodities are exempted and are not considered "commercial feed" if they are not adulterated (see RCW 15.53.902 for a list of conditions that cause commercial feeds to be adulterated):

• Unmixed whole seeds and physically altered entire unmixed seeds when such seeds are not chemically changed.

• Raw meat, hay, loose salt, straw, stover, silage, cobs, husks, and hulls when such commodities are not ground, mixed or intermixed with other materials.

"Customer-formula feed" means commercial feed that is a mixture of commercial feeds or feed ingredients, or both, each batch of which is manufactured according to the instructions of the final purchaser.

"Department" means the Washington state department of agriculture (WSDA).

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Distressed pet food" means pet food (dog and cat) in distribution that is no longer available for retail sale. Examples of distressed pet food include, but are not limited to, dented cans, torn bags, or pet food past its sell-by date.

"Distressed specialty pet food" means specialty pet food in distribution that is no longer available for retail sale. Examples of distressed specialty pet food include, but are not limited to, dented cans, torn bags, or specialty pet food past its sell-by date.

"Distribute" means to:

(a) Offer for sale, sell, exchange or barter, commercial feed; or

(b) Supply, furnish, or otherwise provide commercial feed to a contract feeder.

"Distributor" means a person who distributes.

"Drug" means:

(a) Any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man; and

(b) Articles other than feed intended to affect the structure or any function of the animal body.

"Enzyme" means a protein made up of amino acids or their derivatives, which catalyses a defined chemical reaction. Required cofactors should be considered an integral part of the enzyme.

"Facility" means any place where a commercial feed is manufactured, repackaged, sold, transloaded, or stored for later distribution.

"Feed ingredient" means each of the constituent materials making up a commercial feed.

"Grain mixture feed" means mixed or intermixed whole or physically altered grains, that:

(a) Are not chemically altered;

(b) May or may not contain molasses; and

(c) Except for molasses, contain no other additives.

"Guarantee" means a listing of specified nutrients or nonnutritive substances contained in a commercial feed that the manufacturer or distributor named on the feed label warrants as specified in these rules.

"Guaranteed analysis" means a listing of the minimum, maximum or both minimum and maximum concentrations of specified nutrients contained in a commercial feed that the manufacturer or distributor named on the feed label warrants. Both minimum and maximum concentrations of specified nutrients contained in a commercial feed are stated on an "as is" basis rather than on a "one hundred percent moisture free" basis in units specified by these rules.

"Initial distributor" means a person who first distributes a commercial feed in or into Washington state.

"Ingredient statement" means a contiguous listing on the label of all ingredients of which the commercial feed is composed.

"Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a bulk commercial feed is distributed.

"Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon a commercial feed or any of its containers or wrappers; or

(b) Accompanying such commercial feed.

"Lot identifier" means a unique identifier for each lot, batch or production run that enables the manufacturer to accurately trace the complete manufacturing and distribution history of the product. A lot identifier is an individual lot, batch or production run number, code, date, or other suitable identification applied to the label, container, or package. In

the case of bulk feed the lot identifier is on a label, invoice, or shipping document accompanying the feed.

"Net weight" means the weight of a commodity excluding any materials, substances, or items not considered to be part of the commodity. Examples of materials, substances, or items not considered to be part of a commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons. (See RCW 19.94.010 (1)(i).)

"Nutritionally adequate" means the feed, when fed according to directions on the label, will meet the nutritional requirements of the class of animals for which the feed was manufactured.

"Nutritionally suitable" means nutritionally adequate.

"Person" means an individual, firm, partnership, corporation, or association.

"Pet food" means a commercial feed prepared and distributed for consumption by domesticated dogs or cats.

"Principal display panel" means the part of a label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.

"Prohibited mammalian protein" means any protein-containing portion of mammalian animals, excluding:

- Blood and blood products;
- Gelatin;
- Inspected meat products that have been cooked and offered for human food and further heat processed for feed (such as plate waste and used cellulose food casings);
- Milk products (milk and milk proteins); and
- Products whose only mammalian protein is porcine or equine protein.

"Processed," as applied to animal waste, means thermally dehydrated, dry-stacked, ensiled, oxidized, chemically treated, microbiologically digested, chemically or physically fractionated, or treated by other processes that enable an animal waste product to comply with the standards established in this chapter.

"Quantity statement" means the part of the label expressing net weight (mass), net volume (liquid or dry) or count.

"Repackage" means taking commercial feed from packages (no larger than one hundred pounds for dry feed or fifty-five gallons for liquid feed) and placing it into smaller packages for resale.

"Salvage pet food" means pet food (dog and cat) still under control of the original manufacturer and will not be offered for sale at retail. Examples include, but are not limited to, start-up and over-run product, unpelletted pet food, pet food fines, and other products not suitable for packaging for retail sale.

"Salvage specialty pet food" means specialty pet food still under control of the original manufacturer and will not be offered for sale at retail. Examples include, but are not limited to, start-up and over-run product, unpelletted specialty pet food, specialty pet food fines, and other products not suitable for packaging for retail sale.

"Sell" or **"sale"** includes exchange.

"Specialty pet" means a domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles.

"Specialty pet food" means a commercial feed prepared and distributed for consumption by specialty pets.

"Transload" means to transfer commercial feed from one carrier to another carrier without processing or blending the ingredients. For example, transferred from rail cars to trucks or shipping containers.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-010, filed 11/19/03, effective 7/1/04.]

WAC 16-250-015 Feed ingredient names and definitions. Except for the specific names and definitions contained in this section, the names and definitions used in reference to commercial feed ingredients, in this chapter, are the official names and definitions of feed ingredients established by the Association of American Feed Control Officials (AAFCO) and published in the association's official publication.

"Dehydrated grass meal" means the aerial portion of a grass plant that is:

- Cut before the formation of seed;
- That is reasonably free of other crop plants, weeds, and mold;
- Is finely ground; and
- Dried by artificial thermal means.

Note: If a dehydrated grass meal product is identified by a species name, the product must be made from that species.

"Grass seed by-products meal or pellets" means a ground product consisting of light and broken seeds, hulls, chaff, straw, and some weed seeds but excluding sand, dirt, and heavy weed seeds.

"Grass seed screenings meal or pellets" means a product comprised chiefly of hulls obtained from the cleaning of various grass seeds.

"Pea bran" means a product consisting primarily of the various components from a pea splitting operation. Pea bran must contain at least ten percent crude protein and not more than thirty-eight percent crude fiber.

"Pea by-products meal" means a product containing light and broken peas, and offal from pea cleaning, which includes chips, pea powder, pea hulls, and screenings. Pea by-products meal must contain at least fifteen percent crude protein and not more than thirty percent crude fiber.

"Pea meal" means a pea product resulting from the grinding of whole peas that are reasonably free of other crop seeds, weeds, and mold. Pea meal must contain at least twenty percent crude protein and not more than eight percent crude fiber.

"Pea screenings meal" means a product consisting primarily of the various components from the screening and cleaning of peas. Pea screenings meal must contain at least ten percent crude protein and not more than thirty-eight percent crude fiber.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-015, filed 11/19/03, effective 7/1/04.]

WAC 16-250-018 Customer-formula feed labeling required. There are no label format requirements for customer-formula feed. However, a label, invoice, delivery ticket or other shipping document containing all of the information required in WAC 16-250-020(1) must:

(1) Accompany all deliveries of bulk or packaged customer-formula feed; and

(2) Be given to the purchaser; or

(3) If the purchaser is not present when the customer-formula feed is delivered, the label, invoice, delivery ticket or other shipping document may be left with the delivered feed in a place predetermined by the purchaser.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-018, filed 11/19/03, effective 7/1/04.]

WAC 16-250-020 Label information and recordkeeping requirements for customer-formula feed. (1) Using labels, invoices, delivery tickets, or some other type of shipping document, customer-formula feed must be labeled with the following information:

(a) Name and address of the manufacturer;

(b) Name and address of the purchaser;

(c) Date of delivery;

(d) Customer-formula feed name and brand name if any;

(e) Directions for use and precautionary statements as required by WAC 16-250-100 and 16-250-075(3);

(f) If a drug is used, the label must contain information required by WAC 16-250-042; and

(g) The quantity statement.

(2) The product name and net quantity of each commercial feed and each other ingredient used in the customer-formula feed must be on file at the plant producing the product. These records do not have to be delivered with the customer-formula feed, but they must be:

(a) Kept on file for at least one year after the date of the last distribution;

(b) Available to the purchaser, the dealer making the distribution, and the department on request; and

(c) Meet the ingredient statement requirements of WAC 16-250-090.

(3) In addition to the requirements of this chapter, if the term "organic" is used on labels or shipping documents of any customer-formula feed, the feed must be produced under conditions that comply with the 2001 National Organic Program final rule standards for the production and handling of organic crops, livestock and processed food products. The 2001 National Organic Program final rule may be obtained from the department, or on the internet at http://www.ams.usda.gov/nop/NOP/standards.html.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-020, filed 11/19/03, effective 7/1/04.]

WAC 16-250-028 Commercial feed labeling required except customer-formula feed. Except for customer-formula feed, a label complying with the requirements in WAC 16-250-030 and 16-250-035 must accompany all commercial feed offered for distribution. This includes both packaged and bulk commercial feeds. (Customer-formula feed must comply with the requirements in WAC 16-250-020.)

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-028, filed 11/19/03, effective 7/1/04.]

WAC 16-250-030 Recordkeeping requirements and label information required on all commercial feed labels except customer-formula feed. All commercial feed labels, except for customer-formula feed, must contain the information described in this section. The information in subsections (1) through (8) of this section must appear on the label of the product in the following order. The information in subsection (9)(a) of this section must be on the label, container, or package, but may be in a different location than the information in subsections (1) through (8) of this section.

(1) Product name and brand name, if any, consistent with requirements in WAC 16-250-040.

(2) Drugs used in the feed, if any, consistent with requirements in WAC 16-250-042.

(3) Purpose of feed statement consistent with requirements in WAC 16-250-045.

(4) Guarantees consistent with requirements in WAC 16-250-050 through 16-250-076.

(5) Feed ingredient statement consistent with requirements in WAC 16-250-090.

(6) Directions for use and precautionary statements or a reference to their location, if any, required detailed feeding directions and precautionary statements appear elsewhere on the label consistent with requirements in WAC 16-250-100 and 16-250-075(3).

(7) Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address must include the street address, city, state, and zip code. Except that the street address may be omitted if it is shown in the current city directory or telephone directory where the manufacturer or person responsible for distributing the feed is located.

(8) Quantity statement.

(9)(a) Lot identifier that is sufficient to allow the manufacturer to accurately trace the complete manufacturing and distribution history of the product.

(b) Records relating the lot identifier to the manufacture, processing, packing, distribution, receipt, or holding of the product must be kept for one year after the last date of distribution.

(10) In addition to the requirements of this chapter, if the term "organic" is used on labels of any commercial feed, the feed must be produced under conditions that comply with the 2001 National Organic Program final rule standards for the production and handling of organic crops, livestock and processed food products. The 2001 National Organic Program final rule may be obtained from the department, or on the internet at http://www.ams.usda.gov/nop/NOP/standards.html.

(11) All required label information must be stated in English. In addition, label information may be translated into other languages. However, if the label is translated into another language, then the translation must give the same information as the English version of the label.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-030, filed 11/19/03, effective 7/1/04.]

WAC 16-250-035 Format required for all commercial feed labels except customer-formula feed. (1)(a) The following label information must appear in its entirety, in the following order, on one side of the label or container of all commercial feed except customer-formula feed:

(i) Product name and brand name, if any;

(ii) Drug used, if any drug is used;

(iii) Purpose of feed statement;

(iv) Guaranteed analysis;

(v) Feed ingredients;

(vi) Directions for use and precautionary statements or reference to their location if they appear elsewhere on the label;

(vii) Name and principal mailing address of the manufacturer or person responsible for distributing the feed; and

(viii) Quantity statement.

(b) A lot identifier must appear on the label of all commercial feed, but may be in a different location than the information required by (a) of this subsection.

(2)(a) If a reference to the location of the directions for use and precautionary statements is made on the principal label, the directions for use and precautionary statements must be displayed in a prominent place on the label or container but not necessarily on the same side as the information required in subsection (1)(a) of this section.

(b) When directions for use or precautionary statements are placed on a different side of the label or container than the information required in subsection (1)(a) of this section, there must be a statement on the same side of the label or container that the information required in subsection (1)(a) of this section is printed such as "see back of label for directions for use."

(3) When the Bovine Spongiform Encephalopathy precautionary statement "do not feed to cattle or other ruminants" is required by 21 CFR, Part 589.2000 (2002 edition), it must appear in a prominent place on the label.

Note: A copy of 21 CFR, Part 589.2000 is available from the department. It is also available on the internet at http://www.access.gpo.gov/nara/cfr/waisidx_01/21cfr589_01.html.

(4) The information required in WAC 16-250-030 must not be subordinated or obscured by other statements or designs.

(5) Printed or written material or design (for example, pictures of animals or birds) of any kind must not be attached to, appear on, or distributed with commercial feed if the material or design is misleading, incorrect, or at variance in any respect with the information required on the label.

(6)(a) Statements referring to a competitive product or comparing the properties of a packaged feed to those of a competitive product must not appear on a label unless the competitive product is specifically identified.

(b) Negative statements regarding a competitive product must not appear on a label unless the director determines that the information provided by the statements is beneficial to the product's purchaser.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-035, filed 11/19/03, effective 7/1/04.]

WAC 16-250-040 Product or brand name label information required for all commercial feeds except customer-formula feed. The following label requirements apply to any commercial feed, except customer-formula feed, distributed under a product or brand name:

(1) The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform to that use. For example, a mixture labeled "dairy feed" must be suitable for dairy animals.

(2) When reviewing product names for single ingredient feeds, the department will be guided by the definitions of feed ingredients and feed terms established by the Association of American Feed Control Officials' official publication unless those definitions and terms are specifically defined in chapter 15.53 RCW or WAC 16-250-010 and 16-250-015.

(3) Except for the circumstances described in subsection (4) of this section, the name of a commercial feed must not be derived from:

(a) One or more ingredients of a mixture to the exclusion of the other ingredients; or

(b) One component of a mixture unless all components are included in the name.

(4) When a commercial feed contains any ingredient or combination of ingredients for the purpose of imparting a distinct characteristic to the product that is significant to the purchaser, the name of that ingredient or combination of ingredients may be used as part of the brand name or product name if the department determines that the:

(a) Ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product;

(b) Product name does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients; and

(c) Product name is not otherwise false or misleading.

(5) The word "vitamin" or a contraction of it, or any word suggesting vitamin, can only be used in the name of a feed that is:

(a) Represented to be a vitamin supplement; and

(b) Labeled with the minimum content, as specified in WAC 16-250-073, of each vitamin declared.

(6) The term "mineralized" may only be used in a feed name for "trace mineralized salt" and must not be used in the name of any other feed. "Trace mineralized salt" must contain significant amounts of trace minerals that are recognized as essential for animal nutrition.

(7)(a) If a brand name includes a single percentage value without explanation, the percentage value must signify the feed's crude protein content. For example, "BLUE BIRD FEEDS 18% Dairy Feed" means that the feed contains eighteen percent crude protein.

(b) If a brand name includes a single percentage value and the percentage does not represent crude protein content, the brand name must indicate what the percentage represents. For example, "BLUE BIRD FEEDS 2.0% Selenium Concentrate Premix."

(c) If a brand name includes more than one percentage value, the percentage must be followed by a corresponding description. For example, "BLUE BIRD FEEDS 20% Crude Protein/20% Fat Calf Milk Replacer."

(d) If the brand name contains either a percentage value that signifies crude protein or the word "protein," then the feed must contain no more than one and one-quarter percent nonprotein nitrogen.

(8) Commercial feed must be considered a distinct brand if it differs in guaranteed analysis, trademark name, or any other characteristic method of marking. However, this

requirement does not prevent a brand from being distributed in various physical forms.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-040, filed 11/19/03, effective 7/1/04.]

WAC 16-250-042 Label information required when a drug is used in commercial feed. If a drug is used in commercial feed, the label must contain:

(1) The word "medicated" appearing directly after and below the product name in a type size that is at least one-half the type size of the product name.

(2) A purpose of feed statement as required in WAC 16-250-045.

(3) Information stating the purpose of the medication.

(4) An active ingredient statement listing the:

(a) Active drug ingredients by established name; and

(b) Amount of active drug ingredient per unit (for example mg/lb, g/ton) consistent with requirements in WAC 16-250-074.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-042, filed 11/19/03, effective 7/1/04.]

WAC 16-250-045 Purpose of feed statement requirements for commercial feed, except grain mixture feeds.

Note: This section applies to:
(1) Medicated customer-formula feed; and
(2) All commercial feeds, except feed distributed under WAC 16-250-065, whether medicated or not.

(1) A purpose statement is not required for grain mixture feeds.

(2) The purpose of feed statement must contain the species and animal class or classes for which the feed is intended.

(3) Animal classes for many species are listed in WAC 16-250-052 through 16-250-060. The manufacturer has the flexibility to use more specific and common language to describe these animal classes, species, and purpose of feed, especially when describing such things as the weight range, sex, or age of the animal for which the feed is manufactured.

(4) The purpose of feed statement may contain multiple species and classes, as long as the feed is nutritionally suitable for all of the species and classes of animals listed, and the guaranteed analysis includes all of the nutrients that must be guaranteed for each species.

(5) The purpose of feed statement may be excluded from the label if the product name includes a description of the species and animal class or classes for which the product is intended.

(6) If enzymatic activity related to the product is represented in any manner, the purpose of feed statement must include a statement explaining the purpose of that enzymatic activity.

(7) The purpose of feed statement for a commercial feed intended to provide a specialized nutritional source for use in the manufacture of other feeds such as a premix (see WAC 16-250-068) may replace animal class and species information with the words "for further manufacture of feed" if:

(a) The nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds; and

(b) The final user of the premix provides premix specifications.

(8) The purpose of feed statement of a single purpose ingredient blend, such as a blend of animal protein products, milk products, fat products, roughage products or molasses products may exclude the animal class and species information and state instead "for further manufacture of feed" if the label guarantees of the nutrients contained in the single purpose nutrient blend are sufficient for formulation into various animal species feed. See WAC 16-250-068 for regulations pertaining to single purpose ingredient blends.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-045, filed 11/19/03, effective 7/1/04.]

WAC 16-250-050 Guarantee requirements that apply to WAC 16-250-052 through 16-250-065.

Note: **"Guarantee"** means a listing of specified nutrients or nonnutritive substances contained in a commercial feed that the manufacturer or distributor named on the feed label warrants as specified in these rules.

The requirements in subsections (1) through (4) of this section apply to WAC 16-250-052 through 16-250-065.

(1) Complete feeds and feeds intended to be mixed with grain to produce complete feed for the following animal classes and/or species always require a mineral guarantee:

(a) Swine;

(b) Poultry;

(c) Fish; and

(d) Veal and herd milk replacers.

(2) When stated on a commercial feed label, nutritional guarantees must be listed in the following order:

(a) Crude protein;

(b) Crude protein from nonprotein nitrogen;

(c) Amino acids;

(d) Crude fat;

(e) Crude fiber;

(f) Acid detergent fiber;

(g) Calcium;

(h) Phosphorus;

(i) Salt;

(j) Sodium.

(3) Other required and/or voluntary guarantees should follow those listed in subsection (2) of this section grouped by the unit (percentage, parts per million, International Units, etc.) of measure used to express the guarantees. For example, all guarantees measured by parts per million should be grouped together.

(4) The use of commercial, copyrighted brand, or trade names in the guarantees statement is prohibited.

(5) The following requirements apply to WAC 16-250-052 through 16-250-063:

(a) Commercial feed must be labeled for the animal class or classes for which it is intended.

(b) Commercial feed must also be nutritionally suitable for each and every class for which it is labeled.

(c) WAC 16-250-052 through 16-250-063 contains a series of animal class tables. When a manufacturer uses the class terms in the tables, the feed must be suitable for the class as defined in the table.

(d) Instead of the class terms used in the tables, a manufacturer may use more specific and common language to

describe animal classes, especially when describing attributes such as the weight range, sex, or age of the animal for which the feed is manufactured.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-050, filed 11/19/03, effective 7/1/04.]

WAC 16-250-051 Exemptions from the guarantees required in WAC 16-250-052 through 16-250-063. The following exemptions apply to WAC 16-250-052 through 16-250-063:

(1) Guarantees for crude protein, crude fat, and crude fiber are not required when:

(a) The commercial feed is intended for purposes other than to furnish these substances; or

(b) These substances are insignificant to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses.

(2) A mineral guarantee is not required when the feed or feed ingredient is not intended, represented, or does not serve as a principal source of that mineral to the animal.

(3) Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.

(4) Guarantees for microorganisms are not required when:

(a) The commercial feed is intended for a purpose other than to furnish these substances; or

(b) These substances are insignificant to the primary purpose of the product, and no specific label claims are made.

(5) The information on animal class or classes and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class or species.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-051, filed 11/19/03, effective 7/1/04.]

WAC 16-250-052 Guarantees for all swine commercial feed except customer-formula feed.

(1)

Swine	
Classes	**Approximate Size**
Prestarter	2 to 11 pounds
Starter	11 to 44 pounds
Grower	44 to 110 pounds
Finisher (market)	110 to 242 pounds
Gilts, sows and adult boars	None specified
Lactating gilts and sows	None specified

(2) Guaranteed analysis for all animal classes of swine commercial feed must include the following nutrients on the label in the order listed below:

(a) Minimum percentage of crude protein;

(b) Minimum percentage of lysine;

(c) Minimum percentage of crude fat;

(d) Maximum percentage of crude fiber;

(e) Minimum and maximum percentage of calcium;

(f) Minimum percentage of phosphorus;

(g) Minimum and maximum percentage of salt (if added);

(h) Minimum and maximum percentage of total sodium must be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(i) Minimum selenium in parts per million (ppm);

(j) Minimum zinc in parts per million (ppm).

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-052, filed 11/19/03, effective 7/1/04.]

WAC 16-250-053 Guarantees for all poultry commercial feed (broilers, layers and turkeys) except customer-formula feed.

(1)

Layer - Chickens grown to produce eggs for food, for example, table eggs	
Classes	**Approximate Age**
Starting/growing	From day hatched to 10 weeks
Finisher	From 10 weeks to the time the first egg is produced (20 weeks)
Laying	From the time the first egg is laid to the end of the chicken's egg production
Breeder (chickens that produce fertile eggs for hatch replacement layers that lay eggs for food such as table eggs)	From the time the first egg is laid to the end of the chicken's productive cycle

Broiler - Chickens grown for human food	
Classes	**Approximate Age**
Starting/growing	From day hatched to 5 weeks
Finisher	From 5 weeks to market, 42 to 52 days
Breeders - Hybrid strains of chickens, any age and either sex, whose offspring are grown for human food (broilers)	Any age

Broiler-Breeder - Chickens whose offspring are grown for human food	
Classes	**Approximate Age**
Starting/growing	From day hatched to 10 weeks
Finishing	From 10 weeks to the time the first egg is produced (20 weeks)
Laying (fertile egg producing chickens-broilers/roasters)	From day of first egg to the end of fertile egg production

Turkey		
Classes	**Purpose**	**Approximate Age**
Starting/growing	Turkeys grown for human food	**Females -** From day hatched to 13 weeks

Turkey		
Classes	**Purpose**	**Approximate Age**
		Males - From day hatched to 16 weeks
Finisher	Turkeys grown for human food	**Females -** From 13 weeks to 17 weeks
		Males - From 16 weeks to 20 weeks or the desired market weight
Laying	Female turkeys producing eggs	From the time the first egg is produced to the end of egg production
Breeder	Turkeys grown to produce fertile eggs (both sexes)	From day hatched to time first egg is produced (30 weeks)

(2) Guaranteed analysis for all animal classes of poultry commercial feed must include the following nutrients on the label in the order listed below:

(a) Minimum percentage of crude protein;

(b) Minimum percentage of lysine;

(c) Minimum percentage of methionine;

(d) Minimum percentage of crude fat;

(e) Maximum percentage of crude fiber;

(f) Minimum and maximum percentage of calcium;

(g) Minimum percentage of phosphorus;

(h) Minimum and maximum percentage of salt (if added);

(i) Minimum and maximum percentage of total sodium must be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-053, filed 11/19/03, effective 7/1/04.]

WAC 16-250-054 Guarantees for all beef cattle commercial feed except customer-formula feed.

(1)

Beef Cattle	
Classes	**Production Stage**
Calves	Birth to weaning
Cattle on pasture	May be stated in terms of specific production stage, for example, stocker, feeder, replacement heifers, brood cows, bulls, etc.
Feedlot cattle	None specified

(2) Guaranteed analysis for all animal classes of beef cattle commercial feed must include the following nutrients on the label in the order listed below:

(a) Minimum percentage of crude protein;

(b) Maximum percentage of crude protein from nonprotein nitrogen (NPN) when added;

(c) Minimum percentage of crude fat;

(d) Maximum percentage of crude fiber;

(e) Minimum and maximum percentage of calcium;

(f) Minimum percentage of phosphorus;

(g) Minimum and maximum percentage of salt (if added);

(h) Minimum and maximum percentage of total sodium must be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(i) Minimum percentage of potassium;

(j) Minimum vitamin A, other than precursors of vitamin A, in International Units per pound (if added).

(3) Guaranteed analysis for all beef cattle commercial mineral feeds must include the following nutrients (if added) on the label in the order listed below:

(a) Minimum and maximum percentage of calcium;

(b) Minimum percentage of phosphorus;

(c) Minimum and maximum percentage of salt;

(d) Minimum and maximum percentage of total sodium must be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(e) Minimum percentage of magnesium;

(f) Minimum percentage of potassium;

(g) Minimum copper in parts per million (ppm);

(h) Minimum selenium in parts per million (ppm);

(i) Minimum zinc in parts per million (ppm);

(j) Minimum vitamin A, other than precursors of vitamin A, in International Units per pound.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-054, filed 11/19/03, effective 7/1/04.]

WAC 16-250-055 Guarantees for all dairy cattle commercial feed except customer-formula feed.

(1)

Dairy Cattle	
Classes	**Production Stage**
Veal milk replacer	Milk replacer fed for veal production
Herd milk replacer	Milk replacer fed for herd replacement calves
Starter	From 3 days to 3 months
Growing heifers, bulls and dairy beef	**Grower 1 -** 3 months to 12 months
	Grower 2 - More than 12 months
Lactating	Cows in milk
Nonlactating	Dry cows

(2) Guaranteed analysis for veal and herd replacement milk replacer commercial feed must include the following nutrients on the label in the order listed below:

(a) Minimum percentage of crude protein;

(b) Minimum percentage of crude fat;

(c) Maximum percentage of crude fiber;

(d) Minimum and maximum percentage of calcium;

(e) Minimum percentage of phosphorus;

(f) Minimum vitamin A, other than precursors of vitamin A, in International Units per pound (if added).

(3) Guaranteed analysis for all animal classes of dairy cattle commercial feed must include the following nutrients on the label in the order listed below:

(a) Minimum percentage of crude protein;

(b) Maximum percentage of crude protein from nonprotein nitrogen (NPN) when added;

(c) Minimum percentage of crude fat;
(d) Maximum percentage of crude fiber;
(e) Maximum percentage of acid detergent fiber (ADF);
(f) Minimum and maximum percentage of calcium;
(g) Minimum percentage of phosphorus;
(h) Minimum selenium in parts per million (ppm);
(i) Minimum vitamin A, other than precursors of vitamin A, in International Units per pound (if added).

(4) Guaranteed analysis for all dairy cattle mixing and pasture mineral commercial feeds must include the following nutrients (if added) on the label in the order listed below:
(a) Minimum and maximum percentage of calcium;
(b) Minimum percentage of phosphorus;
(c) Minimum and maximum percentage of salt;
(d) Minimum and maximum percentage of total sodium must be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;
(e) Minimum percentage of magnesium;
(f) Minimum percentage of potassium;
(g) Minimum selenium in parts per million (ppm);
(h) Minimum vitamin A, other than the precursors of vitamin A, in International Units per pound.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-055, filed 11/19/03, effective 7/1/04.]

WAC 16-250-056 Guarantees for all equine commercial feed except customer-formula feed.

(1)

Equine	
Classes	**Approximate Age**
Foal	Age ranges are not specified
Mare	
Breeding	
Maintenance	

(2) Guaranteed analysis for all animal classes of equine commercial feed must include the following nutrients on the label in the order listed below:
(a) Minimum percentage of crude protein;
(b) Minimum percentage of crude fat;
(c) Maximum percentage of crude fiber;
(d) Minimum and maximum percentage of calcium;
(e) Minimum percentage of phosphorus;
(f) Minimum copper in parts per million (ppm);
(g) Minimum selenium in parts per million (ppm);
(h) Minimum zinc in parts per million (ppm);
(i) Minimum vitamin A, other than the precursors of vitamin A, in International Units per pound (if added).

(3) Guaranteed analysis for all equine commercial mineral feeds must include the following nutrients (if added) on the label in the order listed below:
(a) Minimum and maximum percentage of calcium;
(b) Minimum percentage of phosphorus;
(c) Minimum and maximum percentage of salt (if added);
(d) Minimum and maximum percentage of sodium must be guaranteed only when the total sodium exceeds that furnished by the maximum salt guarantee;
(e) Minimum copper in parts per million (ppm);
(f) Minimum selenium in parts per million (ppm);
(g) Minimum zinc in parts per million (ppm);
(h) Minimum vitamin A, other than precursors of vitamin A, in International Units per pound (if added).

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-056, filed 11/19/03, effective 7/1/04.]

WAC 16-250-057 Guarantees for all goat and sheep commercial feed except customer-formula feed.

(1)

Goat and Sheep	
Classes	**Approximate Age**
Starter	Age ranges are not specified
Grower	
Finisher	
Breeder	
Lactating	

(2) Guaranteed analysis for all animal classes of goat and sheep commercial feed must include the following nutrients on the label in the order listed below:
(a) Minimum percentage of crude protein;
(b) Maximum percentage of crude protein from nonprotein nitrogen (NPN) when added;
(c) Minimum percentage of crude fat;
(d) Maximum percentage of crude fiber;
(e) Minimum and maximum percentage of calcium;
(f) Minimum percentage of phosphorus;
(g) Minimum and maximum percentage of salt (if added);
(h) Minimum and maximum percentage of total sodium must be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;
(i) Minimum and maximum copper in parts per million (ppm) (if added, or if total copper exceeds 20 ppm);
(j) Minimum selenium in parts per million (ppm);
(k) Minimum vitamin A, other than precursors of vitamin A, in International Units per pound (if added).

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-057, filed 11/19/03, effective 7/1/04.]

WAC 16-250-058 Guarantees for all duck and goose commercial feed except customer-formula feed.

(1)

Ducks	
Classes	**Approximate Age**
Starter	0 to 3 weeks
Grower	3 to 6 weeks
Finisher	6 weeks to market
Breeder developer	8 to 19 weeks
Breeder	22 weeks to end of lay

Geese	
Classes	**Approximate Age**
Starter	0 to 4 weeks
Grower	4 to 8 weeks
Finisher	8 weeks to market
Breeder developer	10 to 22 weeks
Breeder	22 weeks to end of lay

(2) Guaranteed analysis for all animal classes of duck and goose commercial feed must include the following nutrients on the label in the order listed below:

(a) Minimum percentage of crude protein;

(b) Minimum percentage of crude fat;

(c) Maximum percentage of crude fiber;

(d) Minimum and maximum percentage of calcium;

(e) Minimum percentage of phosphorus;

(f) Minimum and maximum percentage of salt (if added);

(g) Minimum and maximum percentage of total sodium must be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-058, filed 11/19/03, effective 7/1/04.]

WAC 16-250-059 Guarantees for all fish commercial feed except customer-formula feed and specialty pet food.

(1)

Fish	
Class (Species)	**Approximate Age**
Trout	Age ranges are not specified
Catfish	
Species other than trout or catfish	

(2) Guaranteed analysis for animal species for fish commercial feed must include the following nutrients on the label in the order listed below:

(a) Minimum percentage of crude protein;

(b) Minimum percentage of crude fat;

(c) Maximum percentage of crude fiber;

(d) Minimum percentage of phosphorus.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-059, filed 11/19/03, effective 7/1/04.]

WAC 16-250-060 Guarantees for all rabbit commercial feed except customer-formula feed.

(1)

Rabbit	
Classes	**Approximate Age**
Grower	4 to 12 weeks
Breeder	12 weeks of age and over

(2) Guaranteed analysis for all animal classes of rabbit commercial feed must include the following nutrients on the label in the order listed below:

(a) Minimum percentage of crude protein;

(b) Minimum percentage of crude fat;

(c) Minimum and maximum percentage of crude fiber (the maximum crude fiber must not exceed the minimum by more than 5.0 units);

(d) Minimum and maximum percentage of calcium;

(e) Minimum percentage of phosphorus;

(f) Minimum and maximum percentage of salt (if added);

(g) Minimum and maximum percentage of total sodium must be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(h) Minimum vitamin A, other than precursors of vitamin A, in International Units per pound (if added).

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-060, filed 11/19/03, effective 7/1/04.]

WAC 16-250-063 Guarantees for commercial feeds for animal species not specified in WAC 16-250-052 through 16-250-060 or in chapter 16-252 WAC, except customer-formula feed. Except for the following commercial feeds:

• Customer-formula feed; and

• Feeds exempted by WAC 16-250-051; and

• Feeds for animals covered in WAC 16-250-052 through 16-250-060; and

• Feeds for animals covered in chapter 16-252 WAC.

The guaranteed analysis for all commercial feed must include the following nutrients listed in this section on the label in the order below:

(1) Minimum percentage of crude protein;

(2) Maximum or minimum percentage of crude protein from nonprotein nitrogen consistent with requirements in WAC 16-250-075;

(3) Minimum percentage of crude fat;

(4) Maximum percentage of crude fiber;

(5) Minimum and maximum percentages of calcium;

(6) Minimum percentage of phosphorus;

(7) Minimum and maximum percentage of salt (if added);

(8) Minimum and maximum percentage of total sodium must be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(9) Other minerals.

Note:

WAC	Animal
16-250-052	Swine
16-250-053	Poultry (broiler, layers, and turkeys)
16-250-054	Beef cattle
16-250-055	Dairy cattle
16-250-056	Equine
16-250-057	Goats and sheep
16-250-058	Ducks and geese
16-250-059	Fish
16-250-060	Rabbits
Chapter 16-252 WAC	Pets and specialty pets

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-063, filed 11/19/03, effective 7/1/04.]

WAC 16-250-065 Guarantees for grain mixture commercial feeds, except customer-formula feed. Guaranteed analysis for all commercial grain mixture feeds must include the following nutrients on the label in the order listed below:

(1) Minimum percentage of crude protein;

(2) Minimum percentage of crude fat; and

(3) Maximum percentage of crude fiber.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-065, filed 11/19/03, effective 7/1/04.]

WAC 16-250-067 Guarantees for commercial feed sold primarily for sugar content. Dried molasses products

and other products being distributed primarily for their sugar content must be guaranteed for total sugars as invert (a unit of measurement expressed as a percentage).

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-067, filed 11/19/03, effective 7/1/04.]

WAC 16-250-068 Guarantees for vitamin/mineral premix and base mix commercial feed. (1) Commercial feeds such as vitamin/mineral premix and base mix that are intended as a specialized nutritional source for use in the manufacture of other feeds, must state their intended purpose and guarantee those nutrients relevant to that purpose.

(2) When approved by the department, guarantees may be made for these special feeds even if there are no approved Association of Official Analytical Chemists (AOAC) methods for determining specific nutritional content of these specialized feeds.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-068, filed 11/19/03, effective 7/1/04.]

WAC 16-250-069 Expression of guarantees—Expressed as is. All guarantees must be expressed on an "as is" basis rather than on a "one hundred percent moisture free" basis.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-069, filed 11/19/03, effective 7/1/04.]

WAC 16-250-070 Expression of guarantees—Sliding-scale method prohibited. The sliding-scale method of expressing guarantees (for example, "protein fifteen to eighteen percent") is prohibited.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-070, filed 11/19/03, effective 7/1/04.]

WAC 16-250-071 Expression of guarantees—Protein, amino acids, fat, and fiber. The guarantees for crude protein, crude protein from nonprotein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber, and acid detergent fiber must be expressed in percentages.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-071, filed 11/19/03, effective 7/1/04.]

WAC 16-250-072 Expression of guarantees—Minerals. (1) Mineral guarantees:

(a) When the calcium, salt, and sodium guarantees are given in the guaranteed analysis, they must be stated and conform to the following:

(i) When the minimum is below 2.5%, the maximum must not exceed the minimum by more than 0.5 percentage points.

(ii) When the minimum is 2.5% but less than 5.0%, the maximum must not exceed the minimum by more than one percentage point.

(iii) When the minimum is 5.0% or greater, the maximum must not exceed the minimum by more than 20% of the minimum and in no case may the maximum exceed the minimum by more than five percentage points.

(b) When stated, certain mineral guarantees must be expressed as follows:

Sodium, Salt, Potassium, Magnesium, Sulfur, Phosphorus, Fluorine, Other	
Mineral Guarantee:	**Expresses As:**
Minimum and maximum total sodium	Percentage (%)
Minimum and maximum salt	Percentage (%)
Minimum potassium	Percentage (%)
Minimum magnesium	Percentage (%)
Minimum sulfur	Percentage (%)
Minimum phosphorus	Percentage (%)
Maximum fluorine	Percentage (%)
Other minimum mineral guarantees	Parts per million (ppm) when the concentration is less than 10,000 ppm
Other minimum mineral guarantees	Percentage when the concentration is 10,000 ppm (1%) or greater

(c) Minerals, except salt, when quantitatively guaranteed, must be stated in terms of percentage of the element.

(d) Products labeled with a quantity statement (for example, tablets, capsules, granules, or liquid) may state mineral guarantees in milligrams (mg) per unit (for example, milligrams per tablet or milligrams per capsule) consistent with the quantity statement and the directions for use.

(2) All mineral phosphatic materials used for feeding purposes must be labeled with the guarantee for:

(a) Minimum and maximum percentage of calcium (when present);

(b) Minimum percentage of phosphorus; and

(c) Maximum percentage of fluorine.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-072, filed 11/19/03, effective 7/1/04.]

WAC 16-250-073 Expression of guarantees—Minimum vitamin content. Guarantees of minimum vitamin content for commercial feeds must be listed in the order shown in the following table. The guarantees must be stated in:

(1) Milligrams per pound; or

(2) Per unit consistent with the units on the quantity statement; or

(3) For the vitamins listed in the following table, the units must be consistent with those in the table:

Vitamins	
Type of Vitamin and Listing Order:	**Stated in:**
Vitamin A, other than precursors of vitamin A	International Units per pound (IU/lb)
Vitamin D-3 in products offered for poultry feeding	International Chick Units per pound (ICU/lb)
Vitamin D, for other uses	International Units per pound (IU/lb)
Vitamin E	International Units per pound (IU/lb)
Concentrated oils and feed additive premixes containing vitamins A, D, and/or E	May, at the option of the distributor, be stated in units per gram (g) instead of units per pound (lb)

Vitamins	
Type of Vitamin and Listing Order:	**Stated in:**
Vitamin B-12	Milligrams (mg) or micrograms (μg) per pound (lb)
Menadione, riboflavin, d-pantothenic acid, thiamine, niacin, vitamin B-6, folic acid, choline, biotin, inositol, p-amino benzoic acid, ascorbic acid, and carotene	Milligrams per pound (mg/lb)

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-073, filed 11/19/03, effective 7/1/04.]

WAC 16-250-074 Expression of guarantees—Drugs. Guarantees for drugs must be stated in terms of percent by weight **except for the following:**

Drugs	
Antibiotics, present at less than 2,000 grams per ton (total) of commercial feed	Grams per ton of commercial feed (g/ton)
Antibiotics, present at 2,000 or more grams per ton (total) of commercial feed	Grams per pound of commercial feed (g/lb)
Note: The term "milligrams per pound" (mg/lb) may be used for drugs or antibiotics in those cases where a dosage is given in "milligrams" in the feeding directions.	

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-074, filed 11/19/03, effective 7/1/04.]

WAC 16-250-075 Expression of guarantees and special requirements—Commercial feeds containing any added nonprotein nitrogen. (1) Commercial feeds containing any added nonprotein nitrogen must be labeled as follows:

(a) For ruminants:

(i) Complete feeds, supplements, and concentrates containing added nonprotein nitrogen and containing more than five percent protein from natural sources must be guaranteed as follows:

Crude protein, minimum, ... %

(This includes not more than. . . . . % equivalent crude protein from nonprotein nitrogen.)

(ii) Mixed feed concentrates and supplements containing less than five percent protein from natural sources may be guaranteed as follows:

Equivalent crude protein from nonprotein nitrogen, minimum, ... %

(iii) Ingredient sources of nonprotein nitrogen such as urea, diammonium phosphate, ammonium polyphosphate solution, ammoniated rice hulls, or other basic nonprotein nitrogen ingredients as defined by the Association of American Feed Control Officials official publication must be guaranteed as follows:

Nitrogen, minimum, ... %

Equivalent crude protein from nonprotein nitrogen, minimum, ... %

(b) For nonruminants:

(i) Complete feeds, supplements and concentrates containing crude protein from all forms of added nonprotein nitrogen must be labeled as follows:

Crude protein, minimum, ... %

This includes not more than . . . . . % equivalent crude protein, which is not nutritionally available to (species of animal for which feed is intended).

(ii) Premixes, concentrates or supplements intended for nonruminants containing more than one and one-quarter percent crude protein from all forms of added nonprotein nitrogen must contain adequate directions for use and a prominent statement such as the following:

WARNING: This feed must be used only in accordance with directions furnished on the label.

(2) Urea and other nonprotein nitrogen products, as defined in the Association of American Feed Control Officials official publication, are accepted sources of crude protein only in commercial feeds for ruminant animals.

(3)(a) Commercial feed must be labeled with adequate directions for the feed's safe use and a precautionary statement that reads, "CAUTION: USE AS DIRECTED" in the location specified in WAC 16-250-020 or 16-250-035 if it contains more than:

(i) Eight and three-quarters percent crude protein from all forms of added nonprotein nitrogen; or

(ii) One-third of the total crude protein content as added nonprotein nitrogen.

(b) The directions for use and caution statements must be printed in a type size and placed on the label in the location specified in WAC 16-250-020 or 16-250-035 so they can be read and understood by an ordinary person purchasing and using the feed in a customary way.

(4) Commercial feed products containing added nonprotein nitrogen do not require duplicate feeding directions or warning or caution statements on medicated feed labels as long as those directions and/or statements include sufficient information to ensure the safe and effective use of the product.

(5) In commercial feeds distributed to nonruminant animals, nonprotein nitrogen sources defined in the Association of American Feed Control Officials official publication, are acceptable sources of nutrients other than crude protein, as long as the maximum crude protein from all nonprotein nitrogen sources does not exceed one and one-quarter percent of the nonruminant's total daily ration.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-075, filed 11/19/03, effective 7/1/04.]

WAC 16-250-076 Expression of guarantees—Microorganisms and enzymes. Any commercial feed being distributed as a source of microorganisms or enzymes, including silage additives, must be guaranteed as follows:

(1)(a) Guarantees for microorganisms must be stated in colony forming units (CFU) per unit weight or volume, consistent with label directions.

(b) A parenthetical statement following the guarantee must list each species in order of predominance.

(2)(a) Guarantees for enzymes must be stated in units of enzymatic activity per unit weight or volume, consistent with label directions.

(b) The source organism for each type of enzymatic activity must be specified, for example: Protease (bacillus subtilis) 5.5 mg amino acids liberated/minute/milligram.

(c) If two or more sources have the same type of activity, they must be listed in order of predominance based on the amount of enzymatic activity provided.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-076, filed 11/19/03, effective 7/1/04.]

WAC 16-250-080 Substantiating nutritional suitability of commercial feed except for customer-formula feed. (1) All commercial feeds, except for customer-formula feeds, must be nutritionally suitable for the purpose represented by their labeling.

(2) If the department has reasonable cause to believe a commercial feed is not nutritionally suitable, the department may require that the feed manufacturer either submit an "affidavit of suitability" or a department approved alternative procedure, certifying that the feed is nutritionally adequate for its intended purpose. The affidavit of suitability or alternate procedure substantiates the feed's suitability but does not preclude the department from requiring additional evidence of nutritional suitability.

(3) If an affidavit of suitability, or department approved alternative procedure, is not submitted by the feed manufacturer within thirty days of written notification, the department may declare that the feed's composition or quality is less than or differs from what is represented by its labeling (see RCW 15.53.902(8)) and order the feed removed from the marketplace.

(4) An affidavit of suitability must contain the following information:

(a) The feed licensee's name;

(b) The feed's product name;

(c) The name and title of the affiant submitting the document;

(d) A statement from the affiant that they know the nutritional content of the feed and that the feed, based on valid scientific evidence, is nutritionally adequate for its intended purpose;

(e) The date the affidavit of suitability is submitted to the department; and

(f) The signature of the affiant notarized by a certified notary public.

(5) Example of affidavit:

Affidavit of Suitability

_____ _____
(Company Name) (Product Name & Code Number)

1. Affiant is the _____ of _____
(Title) (Name of Company)
and is duly authorized to make and execute this Affidavit for and on behalf of said company.
2. Affiant has knowledge of the nutritional content of the above listed feed product and is familiar with the nutritional requirements for the animal species and animal class(es) for which the feed product is intended.

Affidavit of Suitability

3. Affiant has knowledge of valid scientific evidence that supports the suitability of the product for the intended animal species and animal class for which this feed is intended. A copy of the product label is attached to this affidavit.

_____ By _____
(Name of Company) (Name and Title)
Subscribed and sworn to before me
this _____ day of _____, 20___

_____
(Notary Public)

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-080, filed 11/19/03, effective 7/1/04.]

WAC 16-250-090 Feed ingredient statement terms and recordkeeping requirements. Feed ingredients listed on the label or on file at the plant producing the product must comply with the following:

(1) The name of each ingredient must conform to one of the following:

(a) Ingredients must have an official definition in the AAFCO official publication;

(b) If there is no official definition for an ingredient in the AAFCO official publication, then an ingredient with an AAFCO tentative definition may be used;

(c) The ingredient is defined in WAC 16-250-015; or

(d) The ingredient has a commonly accepted name that requires no definition, for example, sugar.

(2) Collective terms for the grouping of feed ingredients must be those defined in the Association of American Feed Control Officials official publication. However, when a collective term for a group of ingredients is used on a label:

(a) Individual ingredients within that group must not be listed on the label; and

(b) When requested the manufacturer must give the department a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing the commercial feed in Washington state. These records must be available to the department for inspection and copying for at least one year after the last date of distribution of the commercial feed.

(3) Ingredients on labels must be listed in descending order by weight.

(4) The specific amount of each ingredient does not need be listed on the label.

(5) A single ingredient product, as defined by the Association of American Feed Control Officials official publication, does not need an ingredient statement.

(6) The names of all listed ingredients must be shown in the same size of letters and type.

(7) Commercial, copyrighted, brand, or trade names must not be used in the ingredient statement.

(8) No reference to quality or grade of an ingredient may appear in the ingredient statement.

(9) The term "dehydrated" may precede the name of any product that has been artificially dried.

(10) When the word "iodized" is used in connection with a feed ingredient, the ingredient must contain at least 0.007% iodine, uniformly distributed.

(11) The term "degermed" must precede the name of any product from which germs were wholly or partially removed.

(12) If a drug is used, the drug does not have to be listed in the ingredient statement. However, the drug name is required to be listed on the label (see WAC 16-250-030 and 16-250-035).

(13) Unless meat and meat by-products are made from cattle, swine, sheep or goats, the terms "meat" and "meat by-products" must specifically identify the animal from which they are derived.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-090, filed 11/19/03, effective 7/1/04.]

WAC 16-250-095 Drug and feed additive requirements. Before the department approves a label for commercial feed that contains additives (including drugs, other special purpose additives, or nonnutritive additives), the distributor may be required to submit evidence satisfactory to the department proving the safety and effectiveness of the commercial feed when used according to the directions on the label.

Satisfactory evidence of the safety and effectiveness of a commercial feed that contains additives (including drugs, other special purpose additives, or nonnutritive additives) is established if one or more of the following apply:

(1) When the use of a commercial feed containing such additives either:

(a) Conforms to the requirements of the applicable regulation in 21 CFR, 2002 edition; or

(b) Are "prior sanctioned"; or

(c) Are "informal review sanctioned"; or

(d) "Generally recognized as safe" (GRAS) for such use.

(2) When the commercial feed is itself a drug, and

(a) Is generally recognized as safe (GRAS) and effective for the labeled use; or

(b) Is marketed subject to an application approved by the Food and Drug Administration under Title 21 U.S.C. 360 b as amended effective on the date these rules were adopted.

(3) When one purpose for feeding a commercial feed is to immunize through some immunological process and the immunizing drugs or additives have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended in 1985.

(4) When the commercial feed is a directly fed microbial product and the:

(a) Product meets the particular fermentation product definition as defined in the Association of American Feed Control Officials official publication; and

(b) Required microbial content statement in the label is limited to the following: "Contains a source of live (viable) naturally occurring microorganisms"; and

(c) Source is stated with a corresponding guarantee expressed according to WAC 16-250-076 requirements.

(5) When the commercial feed is an enzyme product and the:

(a) Product meets the particular enzyme definition in the Association of American Feed Control Officials official publication; and

(b) Enzyme is stated with a corresponding guarantee expressed according to WAC 16-250-076 requirements.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-095, filed 11/19/03, effective 7/1/04.]

WAC 16-250-100 Directions for use and precautionary statement requirements. (1) Directions for use and precautionary statements on the required labeling of all commercial feeds containing additives, (including, but not limited to, prohibited mammalian protein, drugs, nonprotein nitrogen, special purpose additives, or nonnutritive additives) must:

(a) Be adequate to enable users with no special knowledge of the purpose and use of the feed to use it safely and effectively for it's intended purposes; and

(b) Include all information described by all applicable regulations of 21 CFR, Parts 500-599 under the Federal Food, Drug and Cosmetic Act, 2002 edition.

Note: The Food and Drug Administration's regulations are published in the Code of Federal Regulations, and are available in book format from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. They are also available on the Internet at http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html#page1. A copy of the 2002 edition, Parts 500-599 is also on file with the department.

(2) Feeds containing nonprotein nitrogen must have adequate directions for use and precautionary statements as specified in WAC 16-250-075.

(3) Adequate directions for use and precautionary statements identified in subsection (1) of this section are required for commercial feeds that are distributed to:

(a) Supply particular dietary needs; or

(b) For supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-100, filed 11/19/03, effective 7/1/04.]

WAC 16-250-110 Screenings. (1) When screenings are added to unmixed by-product feed, the label must include the term "screenings":

(a) In the same size of type as the brand name; and

(b) Either as part of or immediately below the brand name.

(2) Screenings must:

(a) Not contain any seed, pesticide, or other product that renders it adulterated within the meaning of RCW 15.53.902; and

(b) Be ground fine enough or otherwise treated to destroy the viability of the noxious weed seeds contained in the screening so that the finished product contains no more than one viable prohibited noxious weed seed per pound and not more than twenty-five viable restricted noxious weed seeds per pound.

(3) For purposes of this commercial feed rule, prohibited noxious weed seeds are those listed in WAC 16-301-045 (Prohibited noxious weed seeds) and restricted noxious weed seeds are those listed in WAC 16-301-050 (Restricted noxious weed seeds).

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-110, filed 11/19/03, effective 7/1/04.]

WAC 16-250-120 Adulteration of feed. (1) The terms "poisonous or deleterious substances" as used in RCW 15.53.902 include, but are not limited to, the following:

(a) A commercial feed or feed ingredient that contains more than twenty parts per billion aflatoxin B1, B2, G1, G2, individually or in total.

(b) Fluorine and any mineral or mineral mixture that is used directly to feed domestic animals and in which the fluorine exceeds:

Maximum Allowed Percentage of Fluorine in Minerals	Type of Animal
0.20%	Breeding and dairy cattle
0.30%	Slaughter cattle
0.30%	Sheep
0.35%	Lambs
0.45%	Swine
0.60%	Poultry

(c) Fluorine bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts:

Maximum Allowed Percentage of Fluorine in Ration Excluding Roughage	Type of Animal
0.004%	Breeding and dairy cattle
0.009%	Slaughter cattle
0.006%	Sheep
0.01%	Lambs
0.015%	Swine
0.03%	Poultry

(d) Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that result in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight.

(e) Soybean meal, flakes or pellets or other vegetable meals, flakes or pellets that have been extracted with trichlorethylene or other chlorinated solvents.

(f) Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients that are considered or reported to be a significant source of vitamin B1 (thiamine).

(g) Any substance that is prohibited by 21 CFR, Part 589, 2002 edition.

(2) When screenings are used in a commercial feed, the labeling and screenings must comply with the requirements in WAC 16-250-110 or the commercial feed will be considered adulterated.

(3) Feed containing raw or unprocessed animal waste will be considered adulterated.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-120, filed 11/19/03, effective 7/1/04.]

WAC 16-250-140 Use of artificial coloring. (1) Artificial coloring may be used in feeds if it is harmless to animals.

(2) Feed or feed ingredients must not contain materials that enhance the natural color of a feed if it conceals inferiorities.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-140, filed 11/19/03, effective 7/1/04.]

WAC 16-250-150 Reusing bags, totes, and containers. Bags, totes, or nonporous containers of similar capacity used for commercial feeds (including customer-formula feed) must not be reused unless appropriately cleaned. A firm that intends to reuse bags, totes, or containers must document their clean-out procedures.

Note: "Appropriate cleaning procedures" are procedures that prevent cross contamination of products that would create a safety concern. Examples of safety concerns include:
(a) Medicated products contaminating nonmedicated products;
(b) Prohibited mammalian protein contaminating ruminant feed; and
(c) Feed containing minerals, or other additives, intended for one species contaminating feed intended for another species that is more sensitive to a mineral or other additive.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-150, filed 11/19/03, effective 7/1/04.]

WAC 16-250-155 Tonnage fee requirements. Each initial distributor of commercial feed in or into Washington state must pay the department an inspection fee of nine cents per ton on all commercial feed they sold during the year. The minimum inspection fee, the late penalty fee, and exceptions to payment of the fee are as authorized in RCW 15.53.9018.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-155, filed 11/19/03, effective 7/1/04.]

WAC 16-250-160 Commercial feed license application requirements. (1) The commercial feed license application form, to be completed by applicants and licensees, must include:

(a) The name and business address of the applicant; and

(b) Information regarding the types of business the firm is engaged in (feed manufacturer, dealer, broker); and

(c) The type of commercial feed distributed (medicated feed, complete feed, feed supplement, or animal by-products).

(2) A commercial feed license is not required for facilities that only:

(a) Sell food processing by-products from fruit, vegetable, or potato processing plants, freezing or dehydrating facilities, or juice or jelly preserving plants;

(b) Sell bona fide experimental feed on which accurate records and experimental programs are maintained;

(c) Makes retail sales of bagged, or packaged commercial feed bearing labeling or other approved indicators showing that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the required tonnage inspection fees.

Note: The commercial feed license application form is available from the department. This form may also be downloaded from the internet at http://www.wa.gov/agr/FoodAnimal/AnimalFeed/Forms/Form4273.pdf.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-160, filed 11/19/03, effective 7/1/04.]

WAC 16-250-170 Commercial feed label submission requirements. License applicants and licensees must submit copies of their commercial feed labels and labeling to the department when requested for reasonable cause.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-170, filed 11/19/03, effective 7/1/04.]

WAC 16-250-180 Good manufacturing practices adopted. The following good manufacturing practices are adopted:

(1) Regulations prescribing current good manufacturing practices for Type B and Type C medicated feeds as published in 21 CFR, Part 225, Sections 225.1 - 225.202, 2002 edition.

(2) Regulations prescribing good manufacturing practices for Type A Medicated Articles as published in 21 CFR, Part 226, Sections 226.1 - 226.115, 2002 edition.

(3) Regulations pertaining to animal proteins prohibited in ruminant feed as published in 21 CFR, Part 589.2000, 2002 edition, even if interstate commerce is not involved.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-180, filed 11/19/03, effective 7/1/04.]

Chapter 16-252 WAC

COMMERCIAL FEED RULES—PET FOOD AND SPECIALTY PET FOOD

WAC

16-252-001 Effective date.
16-252-005 Commercial feed regulated by this chapter.
16-252-010 Commercial feed terms and definitions.
16-252-015 Feed ingredient names and definitions.
16-252-025 Label information and recordkeeping requirements.
16-252-040 Product or brand name label information required.
16-252-042 Additional label information required when a drug is used.
16-252-051 Exemptions from the guarantees required in WAC 16-252-061 and 16-252-062.
16-252-061 Guarantees for pet food.
16-252-062 Guarantees for specialty pet food.
16-252-065 Guarantees for grain mixture specialty pet food, with or without molasses.
16-252-069 Expression of guarantees—Expressed as is.
16-252-070 Expression of guarantees—Sliding-scale method prohibited.
16-252-071 Expression of guarantees—Protein, amino acids, fat, and fiber in specialty pet food.
16-252-072 Expression of guarantees—Minerals in specialty pet food.
16-252-073 Expression of guarantees—Minimum vitamin content in specialty pet food.
16-252-074 Expression of guarantees—Pet food and specialty pet food containing drugs.
16-252-075 Expression of guarantees and special requirements—Pet food and specialty pet food containing any added nonprotein nitrogen.
16-252-076 Expression of guarantees—Microorganisms and enzymes.
16-252-080 Substantiating nutritional suitability.
16-252-090 Ingredient statement terms.
16-252-095 Drug and feed additive requirements.
16-252-100 "Directions for use" and "precautionary statement" requirements.
16-252-110 Screenings.
16-252-120 Adulteration of pet food and specialty pet food.
16-252-140 Use of artificial coloring.
16-252-150 Reusing bags, totes, and containers.
16-252-155 Tonnage fee required.
16-252-165 Registration requirements.
16-252-170 Label submission requirements.
16-252-180 Good manufacturing practices adopted.

WAC 16-252-001 Effective date. Chapter 16-252 WAC, Commercial feed rules—Pet food and specialty pet food, becomes effective on July 1, 2004.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-001, filed 11/19/03, effective 7/1/04.]

WAC 16-252-005 Commercial feed regulated by this chapter. This chapter regulates pet food and specialty pet food except for customer-formula food.

(1) Where a conflict occurs between the provisions of this chapter and those of chapter 16-250 WAC (commercial feed rules), the regulations in this chapter take precedence.

(2) Where a commercial pet food and/or specialty pet food issue arises on which this chapter is silent and a provision in chapter 16-250 WAC addresses the issue, then chapter 16-250 WAC must be followed. The department expects such situations will be rare.

Note:
- Pet food is food for dogs and cats.
- Specialty pet food is food for specialty pets such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles.
- Commercial feed for beef cattle, dairy cattle, equine, goats and sheep, ducks and geese, fish, rabbits, swine, chickens, turkeys, and other animals not specifically regulated under this chapter is regulated under chapter 16-250 WAC.
- Customer-formula feed (food) for all species is regulated under chapter 16-250 WAC.
- Ingredients meeting the definition of commercial feed, that are used to make a pet food or specialty pet food, are regulated under chapter 16-250 WAC, unless the ingredient meets the definition of pet food or specialty pet food in which case the ingredient is regulated under this chapter.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-005, filed 11/19/03, effective 7/1/04.]

WAC 16-252-010 Commercial feed terms and definitions. Except for the specific terms and definitions contained in this section or in RCW 15.53.901, the terms and definitions used in reference to commercial feeds, in this chapter, are the official feed terms adopted by the Association of American Feed Control Officials (AAFCO) and published in the association's official publication. Throughout these rules where the Association of American Feed Control Officials (AAFCO) official publication is referred to, the reference is to the 2003 Official Publication.

Note: A copy of the official publication is on file with the department. Copies may be purchased from AAFCO Assistant Secretary-Treasurer; P.O. Box 478 Oxford, IN 47971.

"Animal wastes" means a material composed of excreta, with or without bedding materials and/or animal drugs, collected from poultry, ruminants or other animals except humans.

"All life stages" means gestation/lactation, growth, and adult maintenance life stages of a domesticated dog or cat.

"Canned" means feed that has been processed, packaged, sealed, and sterilized for preservation in cans, pouches, or similar containers.

"Commercial feed" means all materials or combination of materials that are distributed or intended for distribution for use as feed or for mixing in feed, unless such materials are specifically exempted.

The following commodities are exempted and are not considered "commercial feed" if they are not adulterated (see RCW 15.53.902 for a list of conditions that cause commercial feeds to be adulterated):

• Unmixed whole seeds and physically altered entire unmixed seeds when such seeds are not chemically changed.

• Raw meat, hay, loose salt, straw, stover, silage, cobs, husks, and hulls when such commodities are not ground, mixed or intermixed with other materials.

"Customer-formula feed" means commercial feed that is a mixture of commercial feeds or feed ingredients, or both, each batch of which is manufactured according to the instructions of the final purchaser.

"Department" means the Washington state department of agriculture (WSDA).

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Distressed pet food" means pet food (dog and cat) in distribution that is no longer available for retail sale. Examples of distressed pet food include, but are not limited to, dented cans, torn bags, or pet food past its sell-by date.

"Distressed specialty pet food" means specialty pet food in distribution that is no longer available for retail sale. Examples of distressed specialty pet food include, but are not limited to, dented cans, torn bags, or specialty pet food past its sell-by date.

"Distribute" means to:

(a) Offer for sale, sell, exchange or barter, commercial feed; or

(b) Supply, furnish, or otherwise provide commercial feed to a contract feeder.

"Distributor" means a person who distributes.

"Drug" means:

(a) Any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man; and

(b) Articles other than feed intended to affect the structure or any function of the animal body.

"Enzyme" means a protein made up of amino acids or their derivatives, which catalyses a defined chemical reaction. Required cofactors should be considered an integral part of the enzyme.

"Facility" means any place where a commercial feed is manufactured, repackaged, sold, transloaded, or stored for later distribution.

"Family" means a group of pet food products, which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product, which has been successfully test-fed according to an AAFCO feeding protocol(s).

"Feed ingredient" means each of the constituent materials making up a commercial feed.

"Grain mixture specialty pet food" means mixed or intermixed whole or physically altered grains, that:

(a) Are not chemically altered;

(b) May or may not contain molasses; and

(c) Except for molasses, contain no other additives.

"Guarantee" means a listing of specified nutrients or nonnutritive substances contained in a commercial feed that the manufacturer or distributor named on the feed label warrants as specified in these rules.

"Guaranteed analysis" means a listing of the minimum, maximum or both minimum and maximum concentrations of specified nutrients contained in a commercial feed that the manufacturer or distributor named on the feed label warrants. Both minimum and maximum concentrations of specified nutrients contained in a commercial feed are stated on an "as is" basis rather than on a "one hundred percent moisture free" basis in units specified by these rules.

"Initial distributor" means a person who first distributes a commercial feed in or into Washington state.

"Ingredient statement" means a contiguous listing on the label of all ingredients of which the commercial feed is composed.

"Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a bulk commercial feed is distributed.

"Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon a commercial feed or any of its containers or wrappers; or

(b) Accompanying such commercial feed.

"Lot identifier" means a unique identifier for each lot, batch or production run that enables the manufacturer to accurately trace the complete manufacturing and distribution history of the product. A lot identifier is an individual lot, batch or production run number, code, date, or other suitable identification applied to the label, container, or package. In the case of bulk feed, the lot identifier is on a label, invoice, or shipping document accompanying the feed.

"Net weight" means the weight of a commodity excluding any materials, substances, or items not considered to be part of the commodity. Examples of materials, substances, or items not considered to be part of a commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons. (See RCW 19.94.010 (1)(i).)

"Nutritionally adequate" means the feed, when fed according to directions on the label, will meet the nutritional requirements of the class of animals for which the feed was manufactured.

"Nutritionally suitable" means nutritionally adequate.

"Person" means an individual, firm, partnership, corporation, or association.

"Pet food" means a commercial feed prepared and distributed for consumption by domesticated dogs or cats.

"Principal display panel" means the part of a label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.

"Prohibited mammalian protein" means any protein-containing portion of mammalian animals, excluding:

• Blood and blood products;

• Gelatin;

• Inspected meat products that have been cooked and offered for human food and further heat processed for feed (such as plate waste and used cellulose food casings);

• Milk products (milk and milk proteins); and

• Products whose only mammalian protein is porcine or equine protein.

"Processed," as applied to animal waste, means thermally dehydrated, dry-stacked, ensiled, oxidized, chemically treated, microbiologically digested, chemically or physically fractionated, or treated by other processes that enable an ani-

mal waste product to comply with the standards established in this chapter.

"Quantity statement" means the part of the label expressing net weight (mass), net volume (liquid or dry) or count.

"Salvage pet food" means pet food still under control of the original manufacturer and will not be offered for sale at retail. Examples include, but are not limited to, start-up and over-run product, unpelletted pet food, pet food fines, and other products not suitable for packaging for retail sale.

"Sell" or **"sale"** includes exchange.

"Specialty pet" means a domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles.

"Salvage specialty pet food" means specialty pet food still under control of the original manufacturer and will not be offered for sale at retail. Examples include, but are not limited to, start-up and over-run product, unpelletted specialty pet food, specialty pet food fines, and other products not suitable for packaging for retail sale.

"Specialty pet food" means a commercial feed prepared and distributed for consumption by specialty pets.

"Transload" means to transfer commercial feed from one carrier to another carrier without processing or blending the ingredients. For example, transferred from rail cars to trucks or shipping containers.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-010, filed 11/19/03, effective 7/1/04.]

WAC 16-252-015 Feed ingredient names and definitions. Except for the specific names and definitions contained in this section, the names and definitions used in reference to pet food and specialty pet food ingredients, in this chapter, are the official names and definitions of feed ingredients established by the Association of American Feed Control Officials (AAFCO) and published in the association's official publication.

"Dehydrated grass meal" means the aerial portion of a grass plant that is:

- Cut before the formation of seed;
- Reasonably free of other crop plants, weeds, and mold;
- Finely ground; and
- Dried by artificial thermal means.

Note: If a dehydrated grass meal product is identified by a species name, the product must be made from that species.

"Grass seed by-products meal or pellets" means a ground product consisting of light and broken seeds, hulls, chaff, straw, and some weed seeds but excluding sand, dirt, and heavy weed seeds.

"Grass seed screenings meal or pellets" means a product comprised chiefly of hulls obtained from the cleaning of various grass seeds.

"Pea bran" means a product consisting primarily of the various components from a pea splitting operation. Pea bran must contain at least ten percent crude protein and not more than thirty-eight percent crude fiber.

"Pea by-products meal" means a product containing light and broken peas, and offal from pea cleaning, which includes chips, pea powder, pea hulls, and screenings. Pea by-products meal must contain at least fifteen percent crude protein and not more than thirty percent crude fiber.

"Pea meal" means a pea product resulting from the grinding of whole peas that are reasonably free of other crop seeds, weeds, and mold. Pea meal must contain at least twenty percent crude protein and not more than eight percent crude fiber.

"Pea screenings meal" means a product consisting primarily of the various components from the screening and cleaning of peas. Pea screenings meal must contain at least ten percent crude protein and not more than thirty-eight percent crude fiber.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-015, filed 11/19/03, effective 7/1/04.]

WAC 16-252-025 Label information and record-keeping requirements. (1) Labels for pet food must contain the information in subsections (2) through (12) of this section. Labels for specialty pet food must contain the information in subsections (2) through (11) of this section. Information in subsections (2) through (6) of this section must be on the principal display panel for both pet food and specialty pet food.

Note: Subsections (12) through (15) of this section apply to pet food only. All other sections apply to both pet food and specialty pet food.

(2) Product name and brand name, if any, on the principal display panel consistent with requirements in WAC 16-252-040.

(3) Information required by WAC 16-252-042 if the product contains a drug.

(4) The species of pet (dog or cat), or specialty pet, for which the food is intended conspicuously stated in words on the principal display panel.

(5) A quantity statement on the principal display panel.

(6) If enzymatic activity related to the product is represented in any manner, the principal display panel must include a statement explaining the purpose of that enzymatic activity.

(7)(a) Guaranteed analysis consistent with requirements in WAC 16-252-061 for pet food; or

(b) Guaranteed analysis consistent with requirements in WAC 16-252-062 or 16-252-065 for specialty pet food.

(8) An ingredient statement that is consistent with the requirements in WAC 16-252-090.

(9) Feeding directions and precautionary statements if required under WAC 16-252-100.

(10)(a) The label of a pet food or specialty pet food must specify the name and address of the manufacturer or person responsible for distributing the feed. The statement of the place of business must include the street address, city, state, and zip code. However, the street address may be omitted if the street address is shown in a current city directory or telephone directory for the city listed on the label.

(b) When a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package was manufactured, packaged or distributed.

(11)(a) Lot identifier that is sufficient to allow the manufacturer to accurately trace the complete manufacturing and distribution history of the product.

(b) Records relating the lot identifier to the manufacture, processing, packing, distribution, receipt, or holding of the product must be kept for one year after the last date of distribution.

Note: Subsections (12) through (15) of this section apply to pet food only. All other subsections apply to both pet food and specialty pet food.

(12)(a) Except when a pet food is clearly and conspicuously identified on the principal display panel as a "snack" or "treat," pet food labels must include a statement of nutritional adequacy or purpose of the product.

(b) The nutritional adequacy statement must read as shown in (b)(i), (ii), or (iii) of this subsection with the blanks filled in with the stage or stages of the pet's life, such as, "gestation/lactation," "growth," "maintenance," or "all life stages."

(i) "(Name of product) is formulated to meet the nutritional levels established by the AAFCO dog (or cat) food nutrient profiles for. . . . . "; or

(ii) "Animal feeding tests using AAFCO procedures substantiate that (name of product) provides complete and balanced nutrition for. . . . . "; or

(iii) "(Name of product) provides complete and balanced nutrition for. . . . . and is comparable in nutritional adequacy to a product that has been substantiated using AAFCO feeding tests."

(13) The use of the word "proven" in connection with a label claim for a pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.

(14) The label of a pet food intended for all life stages may include an unqualified claim, directly or indirectly, such as "complete and balanced," "perfect," "scientific" or "one hundred percent nutritious" if at least one of the following apply:

(a) The product meets the nutrient requirements for all life stages established by an AAFCO-recognized nutrient profile published in the Association of American Feed Control Officials official publication; or

(b) The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocols published in the Association of American Feed Control Officials official publication; or

(c) The product is a member of a product family, which is nutritionally similar to a lead product containing a combination of ingredients that has been fed, as the sole source of nourishment, to a normal animal according to testing procedures published in the Association of American Feed Control Officials official publication.

(i) The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and

(ii) The family product meets the criteria for all life stages; and

(iii) Under circumstances of reasonable doubt, the department may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.

(15) A pet food, intended for a limited purpose or specific life stage (but **not all** life stages), may include a direct or indirect qualified claim such as "complete and balanced," "perfect," "scientific" or "one hundred percent nutritious" when the product and claim comply with all of the following:

(a) A statement qualifying the claim must clearly identify the limited purpose or life stage for which the product is intended or suitable. For example, when the label reads "complete and balanced for puppies (or kittens)."

(b) The claim and the qualification must be next to each other, on the same label panel and in the same size, style, and color print; and

(c) The product must comply with at least one of the following:

(i) The nutrient requirements, established by an AAFCO-recognized nutrient profile, for the limited purpose or specific life stage; or

(ii) The criteria for a limited purpose or a specific life stage that are substantiated by completion of an appropriate AAFCO-recognized animal feeding protocol(s); or

(iii) The requirement of a product family that is nutritionally similar to a lead product and contains a combination of ingredients, which by adequate testing has demonstrated they satisfy the nutrient requirements for such a limited purpose.

(A) The nutritional similarity of the family product must be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and

(B) The family product meets the criteria for such limited purpose; and

(C) If it has reasonable doubt, the department may require the manufacturer perform additional testing on the family product to substantiate the claim of nutritional adequacy.

(16) When pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information must appear on the outer container or wrapper.

(17) Graphic or pictorial representation or design (for example, pictures of animals or birds) of any kind must not be attached to, appear on, or distributed with pet food or specialty pet food if the material or design is misleading, incorrect, or at variance in any respect with the information required on the label.

(18)(a) Statements referring to a competitive product or comparing the properties of a packaged food to those of a competitive product must not appear on a label unless the competitive product is specifically identified.

(b) Negative statements regarding a competitive product must not appear on a label unless the director determines that the information provided by the statements is beneficial to the product's purchaser.

(c) False or misleading comparisons with other products must not appear on the label or labeling of any pet food product.

(d) A statement on a pet food or specialty pet food label stating preference or comparative attribute claims must be substantiated and limited to one year production, after which the claim must be removed or resubstantiated.

(19) A personal or commercial endorsement is permitted on a pet food or specialty pet food label, provided the endorsement is not false or misleading.

(20) A statement on a pet food or specialty pet food label stating "improved," "new," or similar designation must be substantiated and limited to six months production.

(21) When a flavor designation is included as part of the product name, or elsewhere on the label of a pet food or specialty pet food, it must meet the requirements in (a), (b), and (c) of this subsection.

(a) The flavor designation must:

(i) Conform to the name of the ingredient as listed in the ingredient statement; or

(ii) Be identified by the source of the flavor in the ingredient statement.

(b) The word "flavor" must be printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation.

(c) Substantiation of the flavor designation, the flavor claim, or the ingredient source must be provided to the department upon request.

(22) Distressed or salvage pet food or specialty pet food that contains, or may contain, prohibited mammalian protein must be labeled with the Bovine Spongiform Encephalopathy precautionary statement "do not feed to cattle or other ruminants."

(23) In addition to the requirements of this chapter, if the term "organic" is used on labels of any pet food or specialty pet food, it must be produced under conditions that comply with the 2001 National Organic Program final rule standards for the production and handling of organic crops, livestock and processed food products. The 2001 National Organic Program final rule may be obtained from the department, or on the internet at http://www.ams.usda.gov/nop/NOP/standards.html.

(24) All required label information must be stated in English. In addition, label information may be translated into other languages. However, if the label is translated into another language, then the translation must give the same information as the English version of the label.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-025, filed 11/19/03, effective 7/1/04.]

WAC 16-252-040 Product or brand name label information required. Label requirements in subsections **(1) through (10) of this section apply to all pet food** distributed under a product or brand name. Label requirements in subsections **(1) through (6) and (8) through (10) of this section apply to all specialty pet food** distributed under a product or brand name.

(1) The brand or product name must be appropriate for the intended use of the pet food or specialty pet food, and must not be misleading. If the name indicates the pet food or specialty pet food is made for a specific use, the character of the pet food or specialty pet food must conform to that use. For example, a mixture labeled "dog food" must be suitable for dogs.

(2) When reviewing product names for single ingredient pet foods or specialty pet foods, the department will be guided by the definitions of feed ingredients and feed terms established by the Association of American Feed Control Officials official publication unless those definitions and terms are specifically defined in chapter 15.53 RCW, WAC 16-252-010, or 16-252-015.

(3) Except for the circumstances described in subsection (4) of this section, the name of a pet food or specialty pet food must not be derived from:

(a) One or more ingredients of a mixture to the exclusion of the other ingredients; or

(b) One component of a mixture unless all components are included in the name.

(4) When a pet food or specialty pet food contains any ingredient or combination of ingredients for the purpose of imparting a distinct characteristic to the product that is significant to the purchaser, the name of that ingredient or combination of ingredients may be used as part of the brand name or product name if the department determines that the:

(a) Ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product;

(b) Product name does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients; and

(c) Product name is not otherwise false or misleading.

(5) The words "one hundred percent" or "all," or words of similar meaning, must not be used in the brand or product name of a pet food or specialty pet food if the product contains more than one ingredient other than:

(a) Water sufficient for processing;

(b) Decharacterizing agents;

(c) A trace amount of preservatives; or

(d) A trace amount of condiments.

(6) An ingredient or a combination of ingredients may form a part of the product name of a pet food or specialty pet food when the product conforms with one of the following options:

(a) The ingredient(s) derived from animals, poultry, or fish constitutes at least ninety-five percent of the total product weight, including water sufficient for processing. If processing water is excluded, then the ingredient(s) derived from animals, poultry, or fish must constitute at least seventy percent of the total product weight.

Note: Example 1: A product may be called "beef dog food" if beef makes up at least ninety-five percent of the total product weight, including water sufficient for processing. If processing water has been excluded from the calculation, then beef must make up at least seventy percent of the total product weight.

Example 2: A product may be called "beef and chicken dog food" if the combination of beef and chicken makes up at least ninety-five percent of the total product weight, including water sufficient for processing. If processing water has been excluded from the calculation, then beef and chicken must make up at least seventy percent of the total product weight.

(b) Any ingredient(s) that constitutes at least twenty-five percent of the total product weight, including water for processing and complies with (i) and (ii). If water for processing has been excluded, then any ingredient(s) that constitutes at least ten percent of the product weight and complies with (i) and (ii).

(i) A descriptor is used with the ingredient name(s). This descriptor must imply other ingredients are included in the product formula. Examples of descriptors include "dinner," "platter," "entree," "formula," and "recipe"; and

(ii) The descriptor must be in the same size, style and color print as the ingredient name(s).

Note: Example 1: A product may be called "beef dinner dog food" if beef makes up at least twenty-five percent of the total product weight, including water for processing and meets the conditions stated in (i) and (ii).
Example 2: If water for processing is excluded from the calculation, then a product may be called "beef dinner dog food" if beef makes up at least ten percent of the total product weight, and meets conditions stated in subsections (i) and (ii).

(c) A combination of ingredients, which are included in the product name in accordance with (a) and (b) of this subsection meets all of the following:

(i) Each ingredient constitutes at least three percent of the product weight, excluding water sufficient for processing;

(ii) The names of the ingredients listed in the product name appear in the order of their respective predominance by weight in the product; and

(iii) The names of the ingredients listed in the product name appear on the label in the same size, style, and color print.

Note: Example 1: A product may be called "beef and chicken dog food" if:
(a) Including water for processing, the combination of beef and chicken total at least ninety-five percent of the product weight; and
(b) Excluding water for processing, at least three percent of the product weight is chicken.
Example 2: A product may be called "beef and chicken dog food" if, excluding processing water, the combination of beef and chicken total at least seventy percent of the product weight and at least three percent of the product weight is chicken.
Example 3: A product may be called "beef and chicken dinner" if:
(a) Including water for processing, the combination of beef and chicken total at least twenty-five percent of the product weight; and
(b) Excluding water for processing, at least three percent of the product weight is chicken.
Example 4: A product may be called "beef and chicken dinner" if the combination of beef and chicken, excluding water for processing total at least ten percent of the product weight and at least three percent of the product weight is chicken.

(7)(a) When the name of any ingredient appears in the product name of a pet food, or elsewhere on the product label, and includes a descriptor such as "with" or similar designation, the named ingredient(s) must each constitute at least three percent of the product weight exclusive of water for processing.

(b) The three percent minimum level does not apply to claims for condiments or nutrients. Condiments include, but are not limited to, flavorings and spices. Nutrients include, but are not limited to, vitamins, minerals, and fatty acids.

(c) If the names of more than one ingredient are shown, they must appear in their respective order of predominance by weight in the product.

(d) The word "with" (or similar designation) and all named ingredients must appear in the same size, style, color and case print and be of no greater size than:

Panel Size	Maximum "with claim" Type Size
< 5 sq. in.	1/8"
5-25 sq. in.	1/4"
25-100 sq. in.	3/8"
100-400 sq. in.	1/2"
400 sq. in. +	1"

Note: Example 1: A product may be called "beef with rice dog food" if:
(a) Including water for processing, the product contains at least ninety-five percent beef; and
(b) Excluding water for processing, at least three percent of the product weight is rice.
Example 2: A product may be called "beef and chicken dinner with rice dog food" if:
(a) Including water for processing, the product contains enough beef and chicken so that these two ingredients total at least twenty-five percent of the product weight; and
(b) Excluding water for processing, at least three percent of the product weight is rice.

(8) The term "mineralized" may only be used in a feed name for "trace mineralized salt" and must not be used in the name of any other feed. "Trace mineralized salt" must contain significant amounts of trace minerals that are recognized as essential for animal nutrition.

(9)(a) If a brand name includes a single percentage value without explanation, the percentage value must signify the feed's crude protein content. For example, "BLUE BIRD PET FOOD eighteen percent cat food" means that the feed contains eighteen percent crude protein.

(b) If a brand name includes a single percentage value and the percentage does not represent crude protein content, the brand name must indicate what the percentage represents. For example, "BLUE BIRD PET FOOD twenty-two percent calcium concentrate premix."

(c) If a brand name includes more than one percentage value, the percentage must be followed by a corresponding description. For example, "BLUE BIRD PET FOOD forty-two percent crude protein - twenty-five percent fat cat milk replacer."

(d) If the brand name contains either a percentage value that signifies crude protein or the word "protein," then the pet food or specialty pet food must contain no more than one and one-quarter percent nonprotein nitrogen.

(10) Pet food and/or specialty pet food must be considered a distinct brand if it differs in guaranteed analysis, trademark name, or any other characteristic method of marking. However, this requirement does not prevent a brand from being distributed in various physical forms.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-040, filed 11/19/03, effective 7/1/04.]

WAC 16-252-042 Additional label information required when a drug is used. In addition to the information specified in WAC 16-252-025, if a drug is used in pet food or specialty pet food, the label must contain the following directly after and below the product name:

(1) The word "medicated" in a type size that is at least one-half the type size of the product name.

(2) Information stating the purpose of the medication.

(3) An active ingredient statement listing the:

(a) Active drug ingredients by established name; and

(b) Amount of active drug ingredient per unit (for example mg/lb, g/ton) consistent with requirements in WAC 16-252-074.

(4) Directions for use and precautionary statements, or a statement of where on the label the directions for use and precautionary statements can be found.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-042, filed 11/19/03, effective 7/1/04.]

WAC 16-252-051 Exemptions from the guarantees required in WAC 16-252-061 and 16-252-062. The following exemptions apply to guarantees listed in WAC 16-252-061 and 16-252-062:

(1) Guarantees for crude protein, crude fat, and crude fiber are not required when:

(a) The pet food or specialty pet food is intended for purposes other than to furnish these substances; or

(b) These substances are insignificant to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses.

(2) A mineral guarantee is not required when the food or food ingredient is:

(a) Not intended or represented or does not serve as a principal source of that mineral to the animal; or

(b) Contains less than six and one-half percent total minerals.

(3) Guarantees for vitamins are not required when the pet food or specialty pet food is neither formulated for nor represented in any manner as a vitamin supplement.

(4) Guarantees for microorganisms are not required when:

(a) The pet food or specialty pet food is intended for a purpose other than to furnish microorganisms; or

(b) The microorganisms are insignificant to the primary purpose of the product, and no specific label claims are made.

(5) Information on animal species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal species.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-051, filed 11/19/03, effective 7/1/04.]

WAC 16-252-061 Guarantees for pet food. (1) The guarantees for pet food in subsections (2) through (5) of this section must appear on the label.

(2)(a) Guaranteed analysis for all pet food must include the following nutrients on the label in the order listed below unless exempted under WAC 16-252-051:

(i) Minimum percentage of crude protein;

(ii) Minimum percentage of crude fat;

(iii) Maximum percentage of crude fat when required by subsection (8) of this section;

(iv) Maximum percentage of crude fiber;

(v) Maximum percentage of moisture;

(vi) Maximum percentage of ash if listed;

(vii) Additional guarantees as required in this section and any voluntary guarantees.

(b) Additional required or voluntary guarantees must be listed in the same order and units as the nutrients in the AAFCO dog (or cat) food nutrient profiles.

(i) Guarantees for nutrients not listed in the AAFCO dog (or cat) food nutrient profiles, or otherwise provided for in this section, must:

(A) Be listed immediately following the entire list of nutrients found in the AAFCO dog (or cat) food nutrient profiles; and

(B) All nutrients of a similar class must be listed together. For example, amino acids not found in the AAFCO dog (or cat) food nutrient profile must be grouped together;

(ii) The concentration of nutrients and/or substances not found in an AAFCO dog (or cat) nutrient profile must be in the units that the nutrient or substance is normally associated with;

(iii) Guarantees for microorganisms and enzymes must be stated as required in WAC 16-252-076;

(iv) Any nutrients or substances that are guaranteed and are not listed in an AAFCO dog (or cat) food nutrient profile, must be immediately followed by an asterisk that refers to the appropriate disclaimer:

(A) **"*Not recognized as an essential nutrient by the AAFCO dog food nutrient profiles";** or

(B) **"*Not recognized as an essential nutrient by the AAFCO cat food nutrient profiles."**

(3) The maximum moisture allowed is seventy-eight percent or the natural moisture content of the ingredients, whichever is higher. However, the moisture in products labeled as, and consisting principally of, items like stew, gravy, sauce, broth, aspic, juice, or a milk replacer may exceed these maximum moisture allowances.

(4) The use of commercial, copyrighted brand, or trade names in the guarantee statement is prohibited.

(5)(a) If a pet food is represented as a mineral supplement, then all minerals from sources listed in the ingredient statement that are also found in an AAFCO-recognized pet food nutrient profile must be guaranteed.

Note: AAFCO pet food nutrient profiles can be found in the Association of American Feed Control Officials official publication.

(b) When minerals are listed, they must be:

(i) Listed in the order they appear in the AAFCO-recognized pet food nutrient profile; and

(ii) As the element in units specified in the AAFCO-recognized nutrient pet food profile.

(c) Mineral guarantees may be stated in milligrams (mg) per unit (for example, tablets, capsules, granules, or liquids) consistent with the units stated in the quantity statement and directions for use.

(d) All liquid mineral pet food must have a weight equivalent on the label following the guarantees for the minerals. For example, 1 fl. oz = 28 grams.

(6)(a) If a pet food is represented as a vitamin supplement, then all vitamins from sources listed in the ingredient statement that are also found in an AAFCO-recognized dog food or cat food nutrient profile must be guaranteed.

(b) When vitamins are listed, they must be:

(i) Listed in the order they appear in the AAFCO-recognized pet food nutrient profile; and

(ii) In units specified in the AAFCO-recognized pet food nutrient profile.

(c) Vitamin guarantees may be stated in approved units (for example, IU, mg, g) per unit (for example, tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use.

(d) All liquid vitamin pet food must have a weight equivalent on the label following the guarantees for the vitamins. For example, 1 fl. oz = 28 grams.

(7) If a pet food is not represented as a supplement for any mineral or vitamin, but the label does list guarantees for any mineral or vitamin, these are "voluntary" guarantees. These voluntary guarantees must meet the order and unit requirements for those pet foods that are represented as a mineral or vitamin supplement.

(8)(a) A dog food label, which contains the terms "lean," "low fat," or words of similar meaning, must:

(i) List the maximum crude fat percentage immediately following the minimum crude fat percentage in the guaranteed analysis; and

(ii) Contain no more crude fat than allowed at the different moisture levels stated in the table below.

Maximum Allowed Percentage of Crude Fat at Different Moisture Ranges in Dog Food	
Maximum Allowed Percentage of Crude Fat	**Moisture Range**
9%	Less than 20%
7%	20% or more but less than 65%
4%	65% or more

(b) A cat food label, which contains the terms "lean," "low fat," or words of similar meaning, must:

(i) List the maximum crude fat percentage immediately following the minimum crude fat percentage in the guaranteed analysis; and

(ii) Contain no more crude fat than allowed at the different moisture levels stated in the table below.

Maximum Allowed Percentage of Crude Fat at Different Moisture Ranges in Cat Food	
Maximum Allowed Percentage of Crude Fat	**Moisture Range**
10%	Less than 20%
8%	20% or more but less than 65%
5%	65% or more

(c) A pet food, which contains a claim of "less fat," "reduced fat," or words of similar meaning must:

(i) List the maximum crude fat percentage immediately following the minimum crude fat percentage in the guaranteed analysis;

(ii) Be compared to another product in the same moisture range (for example, "less than twenty percent," "twenty percent or more but less than sixty-five percent," "sixty-five percent or more"); and

(iii) Name the product of comparison and explicitly state the percentage of fat reduction expressed on an equal weight basis.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-061, filed 11/19/03, effective 7/1/04.]

WAC 16-252-062 Guarantees for specialty pet food. (1) All specialty pet food, except for grain mixture specialty pet food, must be guaranteed as stated in subsections (2) through (4) of this section. The guarantees must appear on the label in the order in which they are listed below unless exempted under WAC 16-252-051.

Note: Guarantee requirements for grain mixture specialty pet food are stated in WAC 16-252-065.

(2) Guaranteed analysis for all specialty pet food, except for grain mixture specialty pet food, must include the following nutrients on the label in the order listed:

(a) Minimum percentage of crude protein;

(b) Minimum percentage of crude fat;

(c) Maximum percentage of crude fiber;

(d) Maximum percentage of moisture;

(e) Maximum percentage of ash if listed;

(f) Minimum and maximum percentages of calcium;

(g) Minimum percentage of phosphorus;

(h) Minimum and maximum percentage of salt (if added);

(i) Minimum and maximum percentage of total sodium must be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(j) Other minerals.

(3) Minerals must be identified and listed consistent with requirements in WAC 16-252-072.

(4) Vitamins must be identified and listed consistent with requirements in WAC 16-252-073.

(5) The maximum moisture allowed is seventy-eight percent or the natural moisture content of the ingredients, whichever is higher. However, the moisture in products labeled as, and consisting principally of, items like stew, gravy, sauce, broth, aspic, juice, or a milk replacer may exceed these maximum moisture allowances.

(6) The use of commercial, copyrighted brand, or trade names in the guarantee statement is prohibited.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-062, filed 11/19/03, effective 7/1/04.]

WAC 16-252-065 Guarantees for grain mixture specialty pet food, with or without molasses. (1) Guaranteed analysis for all grain mixture specialty pet food must include the following nutrients on the label in the order listed:

(a) Minimum percentage of crude protein;

(b) Minimum percentage of crude fat; and

(c) Maximum percentage of crude fiber.

(2) The use of commercial, copyrighted brand, or trade names in the guarantee statement is prohibited.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-065, filed 11/19/03, effective 7/1/04.]

WAC 16-252-069 Expression of guarantees—Expressed as is. All guarantees must be expressed on an "as is" basis rather than on a "one hundred percent moisture free" basis.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-069, filed 11/19/03, effective 7/1/04.]

WAC 16-252-070 Expression of guarantees—Sliding-scale method prohibited. The sliding-scale method of expressing guarantees (for example, "protein fifteen to eighteen percent") is prohibited.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-070, filed 11/19/03, effective 7/1/04.]

WAC 16-252-071 Expression of guarantees—Protein, amino acids, fat, and fiber in specialty pet food. Specialty pet food guarantees for crude protein, crude protein from nonprotein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber, and acid detergent fiber must be expressed in percentages.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-071, filed 11/19/03, effective 7/1/04.]

WAC 16-252-072 Expression of guarantees—Minerals in specialty pet food. (1) Mineral guarantees in specialty pet food:

(a) When the calcium, salt, and sodium guarantees are given in the guaranteed analysis, they must be stated and conform to the following:

(i) When the minimum is below two and one-half percent, the maximum must not exceed the minimum by more than one-half percentage point.

(ii) When the minimum is two and one-half percent but less than five percent, the maximum must not exceed the minimum by more than one percentage point.

(iii) When the minimum is five percent or greater, the maximum must not exceed the minimum by more than twenty percent of the minimum and in no case may the maximum exceed the minimum by more than five percentage points.

(b) When stated, certain mineral guarantees must be expressed as follows:

Sodium, Salt, Potassium, Magnesium, Sulfur, Phosphorus, Fluorine, Other	
Mineral Guarantee:	**Expressed as:**
Minimum and maximum total sodium	Percentage (%)
Minimum and maximum salt	Percentage (%)
Minimum potassium	Percentage (%)
Minimum magnesium	Percentage (%)
Minimum sulfur	Percentage (%)
Minimum phosphorus	Percentage (%)
Maximum fluorine	Percentage (%)
Other minimum mineral guarantees	Parts per million (ppm) when the concentration is less than 10,000 ppm
Other minimum mineral guarantees	Percentage when the concentration is 10,000 ppm (1%) or greater

(c) Minerals, except salt, when quantitatively guaranteed, must be stated in terms of percentage of the element.

(d) Products labeled with a quantity statement (for example, tablets, capsules, granules, or liquid) may state mineral guarantees in milligrams (mg) per unit (for example, milligrams per tablet or milligrams per capsule) consistent with the quantity statement and the directions for use.

(2) All mineral phosphatic materials used for specialty pet food must be labeled with the guarantee for:

(a) Minimum and maximum percentage of calcium (when present);

(b) Minimum percentage of phosphorus; and

(c) Maximum percentage of fluorine.

(3) Specialty pet food that is a single mineral product that is defined in the "mineral products" section of the Association of American Feed Control Officials official publication must guarantee the minerals included in the mineral products definition. For example, bone charcoal must guarantee calcium and phosphorous; calcium iodate must guarantee calcium and iodine.

(4) All liquid mineral guarantees for specialty pet foods must have a weight equivalent on the label following the guarantees for the minerals. For example, 1 fl. oz = 28 grams.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-072, filed 11/19/03, effective 7/1/04.]

WAC 16-252-073 Expression of guarantees—Minimum vitamin content in specialty pet food. (1) Guarantees of minimum vitamin content for specialty pet food must be listed in the order shown in the following table. The guarantees must be stated in:

(a) Milligrams per pound; or

(b) Per unit consistent with the units on the quantity statement; or

(c) For the vitamins listed in the following table, the units must be consistent with those in the table:

Vitamins	
Type of Vitamin and Listing Order:	**Stated in:**
Vitamin A, other than precursors of Vitamin A	International Units per pound (IU/lb)
Vitamin D, for other uses	International Units per pound (IU/lb)
Vitamin E	International Units per pound (IU/lb)
Concentrated oils and feed additive premixes containing vitamins A, D, and/or E	May, at the option of the distributor, be stated in units per gram (g) instead of units per pound (lb)
Vitamin B-12	Milligrams (mg) or micrograms (μg) per pound (lb)
Menadione, riboflavin, d-pantothenic acid, thiamine, niacin, vitamin B-6, folic acid, choline, biotin, inositol, p-amino benzoic acid, ascorbic acid, and carotene	Milligrams per pound (mg/lb)

(2) All liquid vitamin specialty pet foods must have a weight equivalent on the label following the guarantees for the vitamins (for example, 1 fl. oz = 28 grams).

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-073, filed 11/19/03, effective 7/1/04.]

WAC 16-252-074 Expression of guarantees—Pet food and specialty pet food containing drugs. Guarantees for drugs in pet food and specialty pet food must be stated in terms of percent by weight **except for the following:**

Drugs	
Antibiotics, present at less than 2,000 grams per ton (total) of commercial feed	Grams per ton of commercial feed (g/ton)
Antibiotics, present at 2,000 or more grams per ton (total) of commercial feed	Grams per pound of commercial feed (g/lb)

Note: The term "milligrams per pound" (mg/lb) may be used for drugs or antibiotics in those cases where a dosage is given in "milligrams" in the feeding directions.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-074, filed 11/19/03, effective 7/1/04.]

WAC 16-252-075 Expression of guarantees and special requirements—Pet food and specialty pet food con-

taining any added nonprotein nitrogen. (1) Pet food or specialty pet food and pet food or specialty pet food supplements and concentrates containing crude protein from any form of added nonprotein nitrogen must be labeled as follows:

Crude protein, minimum . . . . . %

This includes not more than . . . . . % equivalent crude protein, which is not nutritionally available as protein to (species of animal for which feed is intended).

(2) Pet food or specialty pet food, premixes, concentrates or supplements containing more than one and one-quarter percent crude protein from any form of added nonprotein nitrogen must contain adequate directions for use and a prominent statement on the principal display panel, such as the following:

WARNING: This food must be used only in accordance with directions furnished on the label.

(3) In pet food and specialty pet food, nonprotein nitrogen sources defined in the Association of American Feed Control Officials official publication are acceptable sources of nutrients other than crude protein, as long as the maximum crude protein from all nonprotein nitrogen sources does not exceed one and one-quarter percent of the pet's or specialty pet's total daily ration.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-075, filed 11/19/03, effective 7/1/04.]

WAC 16-252-076 Expression of guarantees—Microorganisms and enzymes. (1)(a) Guarantees for microorganisms must be stated in colony forming units (CFU) per unit weight or volume, consistent with label directions.

(b) A parenthetical statement following the guarantee must list each species in order of predominance.

(2)(a) Guarantees for enzymes must be stated in units of enzymatic activity per unit weight or volume, consistent with label directions.

(b) The source organism for each type of enzymatic activity must be specified, for example: Protease (*Bacillus subtilis*) 5.5 mg amino acids liberated/minute/milligram.

(c) If two or more sources have the same type of activity, they must be listed in order of predominance based on the amount of enzymatic activity provided.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-076, filed 11/19/03, effective 7/1/04.]

WAC 16-252-080 Substantiating nutritional suitability. (1) All pet food and specialty pet food must be nutritionally suitable for the purpose represented by their labeling.

(2) If the department has reasonable cause to believe a pet food or specialty pet food is not nutritionally suitable, the department may require that the manufacturer either submit an "affidavit of suitability" or a department approved alternative procedure, certifying that the food is nutritionally adequate for its intended purpose. The affidavit of suitability or alternate procedure substantiates the food's suitability but does not preclude the department from requiring additional evidence of nutritional suitability.

(3) If an affidavit of suitability, or department approved alternative procedure, is not submitted by the pet food or specialty pet food manufacturer within thirty days of written notification, the department may declare that the pet food or specialty pet food composition or quality is less than or differs from what is represented by its labeling (see RCW 15.53.902(8)) and order the pet food or specialty pet food removed from the marketplace.

(4) An affidavit of suitability must contain the following information:

(a) The pet food or specialty pet food registrant's name;

(b) The product name;

(c) The name and title of the affiant submitting the document;

(d) A statement from the affiant that they know the nutritional content of the pet food or specialty pet food and that the pet food or specialty pet food, based on valid scientific evidence, is nutritionally adequate for its intended purpose;

(e) The date the affidavit of suitability is submitted to the department; and

(f) The signature of the affiant notarized by a certified notary public.

(5) For dog food, a claim of nutritional adequacy must be based on one of the following:

(a) The AAFCO dog food nutrient profiles;

(b) One of the AAFCO dog food feeding protocols; or

(c) Other scientific substantiation acceptable to the department.

(6) For cat food, a claim of nutritional adequacy must be based on one of the following:

(a) The AAFCO cat food nutrient profiles; or

(b) One of the AAFCO cat food feeding protocols;

(c) Other scientific substantiation acceptable to the department.

(7) A specialty pet food nutritional adequacy claim must be based on:

(a) The corresponding species nutrient requirements as published in the *1995 National Research Council Nutrient Requirements of Laboratory Animals*, by the National Academy of Sciences; or

(b) Other scientific substantiation acceptable to the department.

Note: • The only species included in the *1995 National Research Council Nutrient Requirements of Laboratory Animals* are gerbils, guinea pigs, hamsters, mice, and rats. All other specialty pet species will require other methods of scientific substantiation for claims of nutritional adequacy.
• A copy of *Nutrient Requirements of Laboratory Animals* is on file with the department. Copies may be purchased from Office of Publications, National Academy of Sciences, 2101 Constitution Avenue, N.W., Washington, D.C. 20418.

(8) Example of affidavit:

Affidavit of Suitability

(Company Name) (Product Name & Code Number)

1. Affiant is the _____ of _____
(Title) (Name of Company)
and is duly authorized to make and execute this Affidavit for and on behalf of said company.
2. Affiant has knowledge of the nutritional content of the above listed feed product and is familiar with the nutritional requirements for the animal species and animal class(es) for which the feed product is intended.

Affidavit of Suitability

3. Affiant has knowledge of valid scientific evidence that supports the suitability of the product for the intended animal species and animal class for which this feed is intended. A copy of the product label is attached to this affidavit.

_____ By _____

(Name of Company) (Name and Title)

Subscribed and sworn to before me

this _____ day of _____, 20___

_____

(Notary Public)

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-080, filed 11/19/03, effective 7/1/04.]

WAC 16-252-090 Ingredient statement terms. Pet food and specialty pet food ingredients listed on the label or on file at the plant producing the product must comply with the following:

(1) The name of each ingredient must conform to one of the following:

(a) Ingredients must have an official definition in the AAFCO official publication;

(b) If there is no official definition for an ingredient in the AAFCO official publication, then an ingredient with an AAFCO tentative definition may be used;

(c) The ingredient is defined in WAC 16-252-015; or

(d) The ingredient has a commonly accepted name that requires no definition, for example, sugar.

(2) Each ingredient of a pet food or specialty pet food must be listed separately. Collective terms may not be used on pet food or specialty pet food labeling.

(3) Ingredients in the ingredient statement must not list specific ingredient weights or concentrations, but must be listed in descending order by weight.

(4) A single ingredient product, as defined by the Association of American Feed Control Officials official publication, does not need an ingredient statement.

(5) The names of all listed ingredients must be shown in the same size of letters and type.

(6) Commercial, copyrighted, brand, or trade names must not be used in the ingredient statement.

(7) No reference to quality or grade of an ingredient may appear in the ingredient statement.

(8) The term "dehydrated" may precede the name of any product that has been artificially dried.

(9) When the word "iodized" is used in connection with a feed ingredient, the ingredient must contain at least 0.007% iodine, uniformly distributed.

(10) The term "degermed" must precede the name of any product from which germs were wholly or partially removed.

(11) If a drug is used, it does not have to be listed in the ingredient statement. However, the drug name is required to be listed on the label (see WAC 16-252-025 and 16-252-042).

(12) Unless meat and meat by-products are made from cattle, swine, sheep or goats, the terms "meat" and "meat by-products" must specifically identify the animal from which they are derived.

(13) When water is added in the preparation of canned pet food or specialty pet food, the water must be listed as an ingredient.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-090, filed 11/19/03, effective 7/1/04.]

WAC 16-252-095 Drug and feed additive requirements. (1) Before the department approves a registration application and/or a label for pet food or specialty pet food that contains additives (including drugs, other special purpose additives, or nonnutritive additives), the distributor may be required to submit, to the department, satisfactory evidence proving the safety and effectiveness of the pet food or specialty pet food when used according to the directions on the label.

(2) Satisfactory evidence of the safety and effectiveness of a pet food or specialty pet food that contains additives (including drugs, other special purpose additives, or nonnutritive additives) is established if one or more of the following apply:

(a) When the use of a pet food or specialty pet food containing such additives either:

(i) Conforms to the requirements of the applicable regulation in 21 CFR, 2002 edition; or

(ii) Are "prior sanctioned"; or

(iii) Are "informal review sanctioned"; or

(iv) "Generally recognized as safe" (GRAS) for such use.

(b) When the pet food or specialty pet food is itself a drug, and is:

(i) Generally recognized as safe (GRAS) and effective for the labeled use; or

(ii) Marketed subject to an application approved by the Food and Drug Administration under Title 21 U.S.C. 360 b as amended effective on the date these rules were adopted.

(c) When one purpose for feeding a pet food or specialty pet food is to immunize through some immunological process and the immunizing drugs or additives have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended in 1985.

(d) When the pet food or specialty pet food is a directly fed microbial product and the:

(i) Product meets the particular fermentation product definition as listed in the Association of American Feed Control Officials official publication; and

(ii) Required microbial content statement on the label is limited to the following: "Contains a source of live (viable) naturally occurring microorganisms"; and

(iii) Source is stated with a corresponding guarantee expressed according to WAC 16-252-076 requirements.

(e) When the pet food or specialty pet food is an enzyme product and the:

(i) Product meets the particular enzyme definition listed in the Association of American Feed Control Officials official publication; and

(ii) Enzyme is stated with a corresponding guarantee expressed according to WAC 16-252-076 requirements.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-095, filed 11/19/03, effective 7/1/04.]

WAC 16-252-100 "Directions for use" and "precautionary statement" requirements. (1) Directions for use

and precautionary statements on required labeling of all pet food and specialty pet foods containing additives (including, but not limited to, drugs, nonprotein nitrogen, special purpose additives, or nonnutritive additives) must:

(a) Be adequate to enable users with no special knowledge of the purpose and use of the feed to use it safely and effectively for its intended purposes; and

(b) Include all information described by all applicable regulations of 21 CFR, Parts 500-599 under the Federal Food, Drug and Cosmetic Act, 2002 edition.

Note: The Food and Drug Administration's regulations are published in the Code of Federal Regulations, and are available in book format from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. They are also available on the internet at http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html#page1. A copy of the 2002 edition Parts 500-599 are also on file with the department.

(2) Adequate directions for use and precautionary statements identified in subsection (1) of this section are required for pet food and specialty pet food that is distributed to:

(a) Supply particular dietary needs; or

(b) Supplement or fortify the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

(3)(a) When a pet food or specialty pet food is intended for use by or under the supervision of a veterinarian, the statement "use only as directed by your veterinarian" must be on the label. When such a statement is on a pet food label, feeding instructions are not required, but may appear on the label. This regulation takes precedence over other regulations in this subsection.

(b) Pet food, including snacks or treats, labeled as "complete and balanced" for any or all life stages, must list feeding directions on the label. Any pet food labeled as "snacks" or "treats" that contains a drug, must list feeding directions on the label. These directions must:

(i) Be expressed in common terms;

(ii) Appear prominently on the label;

(iii) State the frequency of feeding; and

(iv) At a minimum state, "feed (weight or other measure of product) per (weight only) of dog (or cat)."

(c) Directions must be consistent with the intended use(s) indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared elsewhere (for example, "adult formula").

(d) Directions must be given for each life stage stated on the label.

(4)(a) Pet food and specialty pet food snacks and treats do not require feeding directions on the label except when they:

(i) Are labeled as "complete and balanced"; or

(ii) Contain a drug.

(b) Feeding directions may be on the label for snacks and treats even when not required.

(5) Pet food and specialty pet food labels must contain the statement "This product is intended for intermittent or supplemental feeding only," if the product does not meet the nutrient requirements of the appropriate AAFCO recognized nutrient profile, feeding protocol, or any other special nutritional or dietary need, thus making it suitable only for limited, intermittent, or supplementary feeding.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-100, filed 11/19/03, effective 7/1/04.]

WAC 16-252-110 Screenings. (1) If screenings are used in a pet food or specialty pet food, they must:

(a) Not contain any seed, pesticide, or other product that renders it adulterated within the meaning of RCW 15.53.902; and

(b) Be ground fine enough or otherwise treated to destroy the viability of the noxious weed seeds contained in the screening so that the finished product contains no more than one viable prohibited noxious weed seed per pound and not more than twenty-five viable restricted noxious weed seeds per pound.

(2) For purposes of this pet food and specialty pet food, commercial feed rule, prohibited noxious weed seeds are those listed in WAC 16-301-045 (Prohibited noxious weed seeds) and restricted noxious weed seeds are those listed in WAC 16-301-050 (Restricted noxious weed seeds).

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-110, filed 11/19/03, effective 7/1/04.]

WAC 16-252-120 Adulteration of pet food and specialty pet food. (1) The terms "poisonous or deleterious substances" as used in RCW 15.53.902 include, but are not limited to, the following:

(a) Any ingredient, pet food or specialty pet food that contains more than twenty parts per billion aflatoxin B1, B2, G1, G2, individually or in total.

(b) Soybean meal, flakes or pellets or other vegetable meals, flakes or pellets that have been extracted with trichloroethylene or other chlorinated solvents.

(c) Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on pet food or pet food ingredients that are considered or reported to be a significant source of vitamin B1 (thiamine).

(d) Any substance that is prohibited by 21 CFR, Part 589, 2002 edition.

(2) When screenings are used in a pet food or specialty pet food, the screenings and the finished product must comply with the requirements in WAC 16-252-110 or the pet food will be considered adulterated.

(3) Pet food or specialty pet food containing raw or unprocessed animal waste will be considered adulterated.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-120, filed 11/19/03, effective 7/1/04.]

WAC 16-252-140 Use of artificial coloring. (1) Artificial coloring may be used in pet food if it is harmless to animals.

(2) Any pet food or specialty pet food ingredient or pet food or specialty pet food product must not contain materials that enhance the natural color of a food if it conceals inferiorities.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-140, filed 11/19/03, effective 7/1/04.]

WAC 16-252-150 Reusing bags, totes, and containers. Bags, totes, or nonporous containers of similar capacity used for pet food or specialty pet food must not be reused unless appropriately cleaned. A firm that intends to reuse bags, totes, or containers must document their clean-out procedures.

Note: "Appropriate cleaning procedures" are procedures that prevent cross contamination of products that would create a safety concern. Examples of safety concerns include:
(1) Medicated products contaminating nonmedicated products;
(2) Prohibited mammalian protein contaminating ruminant feed; and
(3) Feed containing minerals, or other additives, intended for one species contaminating feed intended for another species that is more sensitive to a mineral or other additive.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-150, filed 11/19/03, effective 7/1/04.]

WAC 16-252-155 Tonnage fee required. Each initial distributor of a pet food or specialty pet food in or into Washington state must pay the department an inspection fee of nine cents per ton on all pet food or specialty pet food they sold, for distribution within Washington state, during the year. The minimum inspection fee, the late penalty fee, and exceptions to payment of the fee are as authorized in RCW 15.53.9018.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-155, filed 11/19/03, effective 7/1/04.]

WAC 16-252-165 Registration requirements. (1) All registration applications for pet food and specialty pet food must be on forms available from the department.

(2) The application for pet food and specialty pet food registration, to be completed by applicants and registrants, must include:

(a) The company name (registrant);

(b) Complete business mailing address;

(c) Complete physical address of the business, if different than the mailing address;

(d) Telephone number;

(e) Company name on label if different than the registrant;

(f) Number of products sold in small packages of less than ten pounds;

(g) Number of products sold in large packages of ten pounds or more;

(h) Company registrar's name;

(i) Company registrar's title;

(j) Registrar's signature; and

(k) Date signed.

Note: The application for registration of pet food and specialty pet food products may be downloaded from the internet at http://www.wa.gov/agr/FoodAnimal/AnimalFeed/Forms/Form4307.pdf.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-165, filed 11/19/03, effective 7/1/04.]

WAC 16-252-170 Label submission requirements. Pet food and specialty pet food registrants must submit copies of their labels and labeling to the department when:

(1) Applying for a registration; or

(2) The label is revised by the registrant; or

(3) When requested by the department for reasonable cause.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-170, filed 11/19/03, effective 7/1/04.]

WAC 16-252-180 Good manufacturing practices adopted. The following good manufacturing practices are adopted:

(1) Regulations prescribing current good manufacturing practices for Type B and Type C medicated feeds as published in 21 CFR, Part 225, Sections 225.1-225.202, 2002 edition.

(2) Regulations prescribing good manufacturing practices for Type A Medicated Articles as published in 21 CFR, Part 226, Sections 226.1-226.115, 2002 edition.

(3) Regulations pertaining to animal proteins prohibited in ruminant feed as published in 21 CFR, Part 589.2000, 2002 edition.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-180, filed 11/19/03, effective 7/1/04.]

Chapter 16-256 WAC

COMMERCIAL FEED RULES—PROCESSED ANIMAL WASTE

WAC

16-256-001 Effective date.
16-256-010 "Animal waste" and "processed" defined.
16-256-020 Processed animal waste products identified.
16-256-030 Labeling requirements for processed animal waste products.
16-256-040 Testing requirements for processed animal waste products.
16-256-050 Processed animal waste products—Commercial feed license required.
16-256-060 Procedures for denying or revoking a commercial feed license for a processed animal waste product facility.
16-256-070 Quality standards for processed animal waste products.
16-256-080 Records required for processed animal waste products.

WAC 16-256-001 Effective date. Chapter 16-256 WAC, Commercial feed rules—Processed animal waste, becomes effective on July 1, 2004.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-131, § 16-256-001, filed 11/19/03, effective 7/1/04.]

WAC 16-256-010 "Animal waste" and "processed" defined. "Animal wastes" means a material composed of excreta, with or without bedding materials and/or animal drugs, collected from poultry, ruminants or other animals except humans.

"Lot identifier" means a unique identifier for each lot, batch or production run that enables the manufacturer to accurately trace the complete manufacturing and distribution history of the product. A lot identifier is an individual lot, batch or production run number, code, date, or other suitable identification applied to the label, container, or package. In the case of bulk feed the lot identifier is on a label, invoice, or shipping document accompanying the feed.

"Processed," as applied to animal waste, means thermally dehydrated, dry-stacked, ensiled, oxidized, chemically treated, microbiologically digested, chemically or physically fractionated, or treated by other processes that enable an animal waste product to comply with the standards established in this chapter.

Note: Commercial feed containing raw or unprocessed animal waste is considered adulterated under WAC 16-250-120(3).

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-131, § 16-256-010, filed 11/19/03, effective 7/1/04.]

WAC 16-256-020 Processed animal waste products identified. A product is considered a processed animal waste product only if it meets one of the definitions in the following table.

Processed Animal Waste Products		
Product Type	**Description**	**Thermal Dehydration Limit**
Dried poultry waste (DPW)	A processed animal waste product composed of the feces from commercial poultry	Thermally dehydrated to a moisture content not in excess of 12.00 percent
Dried poultry waste-NPN extracted	A processed animal waste product composed of the feces from commercial poultry which has been processed to remove part or all of the crude protein derived from nonprotein nitrogen (NPN) as urea and/or uric acid	Thermally dehydrated to a moisture content not in excess of 12.00 percent
Dried poultry litter-(DPL)	A processed animal waste product composed of a combination of feces from commercial poultry together with litter that was present in the floor production of poultry	Thermally dehydrated to a moisture content not in excess of 12.00 percent
Dried ruminant waste-(DRW)	A processed animal waste product composed of ruminant excreta	Thermally dehydrated to a moisture content not in excess of 12.00 percent
Undried processed animal waste product	A processed animal waste product composed of excreta, with or without litter, from poultry, ruminants or any other animal except humans	Contains in excess of 12.00 percent moisture

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-131, § 16-256-020, filed 11/19/03, effective 7/1/04.]

WAC 16-256-030 Labeling requirements for processed animal waste products. The label, tag, or label invoice accompanying shipments of animal waste products must contain the information required in RCW 15.53.9016, this chapter and the following information:

(1) If the product contains drugs or drug residues, then the label must contain the following statement in boldface type at least one-half as large as the largest type appearing on the label:

"WARNING: THIS PRODUCT CONTAINS DRUG RESIDUES. DO NOT USE WITHIN THIRTY DAYS OF SLAUGHTER AND DO NOT USE THIRTY DAYS PRIOR TO OR DURING THE FOOD PRODUCTION PERIOD OF DAIRY ANIMALS AND/OR HENS."

(2) If the product contains high levels (15 ppm or greater) of copper, then the label must contain the following statement in boldface type at least one-half as large as the largest type appearing on the label:

"WARNING: CONTAINS HIGH LEVELS OF COPPER: DO NOT FEED TO SHEEP."

(3) If the product derives one-third or more of the guaranteed total crude protein from nonprotein nitrogen sources, the label shall provide adequate directions for safe use of the product and the precautionary statement:

"CAUTION: USE ONLY AS DIRECTED."

(4) Animal waste product labels, tags, or labeling must contain the following guarantees in percentages by weight in the following order and form:

(a) Minimum crude protein;

(b) Maximum crude protein from nonprotein nitrogen (NPN);

(c) Minimum crude fat;

(d) Maximum crude fiber;

(e) Maximum moisture;

(f) Maximum ash;

(g) Minimum and maximum calcium (Ca);

(h) Minimum phosphorus (P);

(i) Maximum sodium (Na);

(j) Maximum lignin (if the processed animal waste product is dried poultry litter and if the product contains wood-based bedding materials);

(k) Maximum copper (Cu) (if the processed animal waste product is dried poultry waste or dried poultry litter and **does not** contain the warning "DO NOT FEED TO SHEEP").

(5)(a) Lot identifier that is sufficient to allow the manufacturer to accurately trace the complete manufacturing and distribution history of the product.

(b) Records relating the lot identifier to the manufacture, processing, packing, distribution, receipt, or holding of the product must be kept for one year after the last date of distribution.

(6) Mixed feeds containing processed animal waste products must:

(a) State on the label the maximum percentage and type of processed animal waste product used in the mixed feed; and

(b) Comply with additional labeling requirements under chapters 16-250 or 16-252 WAC for the species for which the product is mixed.

(7) Processed animal waste product labeling must contain, as part of the product name, the animal source and product type.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-131, § 16-256-030, filed 11/19/03, effective 7/1/04.]

WAC 16-256-040 Testing requirements for processed animal waste products. (1) The purpose of the sampling and testing requirements in this section is to determine the presence of harmful materials or biological contaminants specified in WAC 16-256-070 and to assure compliance with the quality standards in that section.

(2) Any person seeking or maintaining a commercial feed license for any processed animal waste product facility must:

(a) Test those products, by representative sampling;

(b) Analyze those samples; and

(c) Keep accurate records of the test results for two years.

(3) The sample used must be of sufficient size to provide meaningful data that is statistically reliable.

(4) Before a processed animal waste product is distributed, the licensee must comply with the following sample and analyses requirements:

(a) Sufficient testing and analyses must be conducted to ensure that the last three consecutive production runs are consistent with the required quality standards in WAC 16-256-070.

(b) After the initial testing is completed, periodic analyses (at least one analysis each calendar quarter) must be conducted on subsequent production runs. Less frequent testing may be allowed when the analytical results show continued uniformity and a consistent margin of compliance. More frequent tests must be conducted when the analytical results show either a wide range of levels or levels close to established quality standard limits.

(5) Analysis of the samples used to determine if the processed animal waste meets the quality standards in WAC 16-256-070 must also include the following:

(a) Drugs used (or suspected of use) in feed or as a therapeutic treatment of the animals;

(b) Pesticides used on the animal, facilities, and wastes for pest control;

(c) Pathogenic organisms, at least to include Salmonella and E. coli;

(d) Heavy metals, including, but not limited to, arsenic, cadmium, copper, lead, mercury and selenium;

(e) Parasitic larva or ova; and

(f) Mycotoxins, such as aflatoxins.

(6) Sequential testing is required when the periodic analyses required by WAC 16-256-040(4) or other information available to the manufacturer of the ingredient indicates that:

(a) The ingredients are not within the limitations established in these regulations;

(b) Changes are made in the manufacturing process;

(c) New or expanded sources of the raw ingredients are used; or

(d) Changes occur in the drugs or pesticides used by the supplier(s) of the raw ingredient(s).

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-131, § 16-256-040, filed 11/19/03, effective 7/1/04.]

WAC 16-256-050 Processed animal waste products—Commercial feed license required. (1) A commercial feed license is required for each facility that manufactures or distributes processed animal waste product intended, promoted, represented, advertised or distributed for use as a commercial feed or feed ingredient.

(2) The commercial feed license application form, to be completed by applicants and licensees, must include the:

(a) Name and business address of the applicant;

(b) Type of business the firm is engaged in (feed manufacturer, dealer, broker, etc.);

(c) Type of commercial feed distributed (processed animal waste product, medicated feed, complete feed, feed supplement, animal products, etc.);

(d) The statutory registration fee of fifty dollars;

(e) A copy of the processed animal waste label that the applicant proposes to use;

(f) A detailed description of sampling procedures used to sample the processed animal waste product for analysis;

(g) A sampling schedule;

(h) A full description of all tests made; and

(i) Test results showing that the processed animal waste product meets the standards in WAC 16-256-070.

(3) The department may take an official sample of the processed animal waste product for examination and analysis before issuing a commercial feed license for a facility that manufactures or distributes processed animal waste products.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-131, § 16-256-050, filed 11/19/03, effective 7/1/04.]

WAC 16-256-060 Procedures for denying or revoking a commercial feed license for a processed animal waste product facility. (1) A commercial feed license for a processed animal waste product facility will be denied or revoked if the:

(a) Applicant or the processed animal waste product is determined to be in violation of any Washington state statute or Washington state agency rule or regulation affecting or relating to the distribution of commercial feeds in this state.

(b) Processed animal waste product does not meet the quality standards in WAC 16-256-070.

(c) Processed animal waste product label does not comply with the requirements of chapter 15.53 RCW and WAC 16-256-030.

(d) Processed waste product is not labeled in compliance with law and agency rules and regulations, including WAC 16-256-030 of these rules.

(e) Applicant or licensee fails to perform the testing as specified in WAC 16-256-256 or to accurately maintain and make available to the director or his designee for inspection and copying, upon demand, the records required in WAC 16-256-080.

(2)(a) When an animal waste product or labeling, or other material required to be submitted with an application fails to comply with the requirements of these rules, the director must notify the applicant why the application does not comply so the applicant can make the necessary corrections.

(b) If, upon receipt of such a notice, the applicant does not make the necessary corrections, the director must deny the license application for the processed animal waste product facility. The applicant may then request a hearing under chapter 34.05 RCW.

(3) After determining that an animal waste product or its labeling does not comply with the provisions of chapter 15.53 RCW or WAC 16-256-030, the department may revoke the facility's license. If aggrieved by the decision, the licensee may request a hearing as authorized under chapter 34.05 RCW.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-131, § 16-256-060, filed 11/19/03, effective 7/1/04.]

WAC 16-256-070 Quality standards for processed animal waste products. (1) Dried animal waste products must comply with the requirements in the following table:

Dried Animal Waste Products					
	Required Minimum/ Maximum Content	**Dried Poultry Waste**	**Dried Poultry Waste-NPN Extracted**	**Dried Poultry Litter**	**Dried Ruminant Waste**
Crude protein	At least	18.00%	11.00%	18.00%	12.00%
Crude fiber	No more than	15.00%	15.00%	25.00%	40.00%
Moisture	No more than	12.00%	12.00%	12.00%	12.00%
Ash	No more than	30.00%	30.00%	20.00%	30.00%
Feathers	No more than	1.00%	1.00%	4.00%	N/A
Combined straw, wood, wood shavings, litter, dirt, sand, rocks, and other similar extraneous materials	No more than	N/A	N/A	N/A	40.00%

(2) Processed animal waste products must not contain:

(a) Any extraneous materials such as, but not limited to, metal, glass, wire or nails (except for undried processed animal waste products in subsection (4) of this section and dried ruminant waste products in subsection (6) of this section); or

(b) Any harmful pathogenic organisms, pesticide residues, harmful parasites, or drug residues except as allowed in WAC 16-256-030(1); or

(c) Other toxic or deleterious substances above levels permitted by department statute or regulation or which could be harmful to the animals or could result in residue in tissues of food products; or

(d) By-products of animals at levels in excess of those allowed by statute or regulation.

(3) Processed animal waste products must not contain:

(a) Aflatoxin in excess of 20 parts per billion (ppb); and

(b) More than a total of 500 parts per million (ppm) of heavy metals such as mercury, lead, bismuth, copper, cadmium, arsenic, antimony, and tin.

(4) Undried processed animal waste products must contain no more than forty percent combined straw, wood, wood shavings, litter, dirt, sand, rocks and other extraneous materials.

(5) To aid in maintaining a stable microbiological quality, any product labeled as, or containing dried animal waste products, must be maintained at no more than twelve percent moisture.

(6) Any processed animal waste product that does not meet the applicable quality standards must be:

(a) Further processed until the quality standards are met; or

(b) Diverted to nonfeed or nonfood uses; or

(c) Destroyed.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-131, § 16-256-070, filed 11/19/03, effective 7/1/04.]

WAC 16-256-080 Records required for processed animal waste products. Any licensed processed animal waste product facility must keep accurate records for two years containing the following information:

(1) All sources of the raw materials used in the production of processed animal waste products and the date those raw materials were acquired including information on drug and pesticide use.

(2) All production batches of processed animal waste products including the code or other method used to identify the batch or date of production.

(3) All distribution of processed animal waste products including the:

(a) Name and address of the purchaser or to whom the product was distributed;

(b) Date the product was distributed;

(c) Quantity of the product distributed; and

(d) Production code for the product distributed.

(4) Test sampling and analysis records required by WAC 16-256-040.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-131, § 16-256-080, filed 11/19/03, effective 7/1/04.]

Chapter 16-301 WAC

GENERAL SEED REGULATIONS

(Formerly chapters 16-300, 16-304, 16-313, 16-316, 16-317, 16-318, 16-493, 16-494 and 16-495 WAC)

WAC

16-301-005 General seed standards—Definitions.
16-301-010 What publications are adopted in chapters 16-301, 16-302, and 16-303 WAC and where can they be obtained?
16-301-055 Tolerances for seed law enforcement.

WAC 16-301-005 General seed standards—Definitions. Definitions for terms used in this chapter and in chapters 16-302 and 16-303 WAC may be found in chapter 15.49 RCW, seed. For the purposes of these chapters, the following definitions shall apply unless otherwise provided for in law or rule:

"Agricultural seed" as defined in RCW 15.49.011(2) includes grass, forage, cereal, oil, fiber, and other kinds of crop seeds commonly recognized within this state as agricultural seeds, lawn seeds, and combination of such seeds, and may include common and restricted noxious weed seeds but not prohibited noxious weed seeds.

"AOSA" means the Association of Official Seed Analysts.

"AOSCA" means the Association of Official Seed Certifying Agencies.

"Approved trial grounds" means a specific parcel of land approved by the director for experimental or limited production or increase of bean seed.

"Arbitration committee" means the committee established by the director under RCW 15.49.101 to hear and make determinations in mandatory, nonbinding, arbitration cases.

"Bean" means common beans and adzuki beans.

"Blend" as defined in RCW 15.49.011(3) means seed consisting of more than one variety of a species, each in excess of five percent by weight of the whole.

"Blending" as related to this chapter shall be the process of commingling two or more lots of seed to form one lot of uniform quality.

"Buyer" means a person who purchases seeds.

"Chairperson" means the person selected by the arbitration committee from among their numbers to preside.

"Certifying agency" as defined in RCW 15.49.011(5) means:

(a) An agency authorized under the laws of any state, territory, or possession to certify seed officially and which has standards and procedures approved by the United States secretary of agriculture to assure the genetic purity and identity of the seed certified; or

(b) An agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed-certifying agencies under (a) of this subsection.

"Common bean" means *Phaseolus vulgaris L*.

"Complete record" means information which relates to the origin, treatment, germination and purity (including variety) of each lot of seed. Records include seed samples and records of declaration, labels, purchases, sales, cleaning, bulking, treatment, handling, storage, analyses, tests and examinations.

"Dealer" as defined in RCW 15.49.011(7) means any person who distributes seeds.

"Department" as defined in RCW 15.49.011(8) means the Washington state department of agriculture or its duly authorized representative.

"Director" as defined in RCW 15.49.011(9) means the director of the department of agriculture.

"Field standards" means the tolerances permitted as determined by established field inspection procedures.

"Fiscal year" means the twelve-month period July 1 through June 30.

"Flower seeds" as defined in RCW 15.49.011(11) include seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold as flower seeds in this state.

"Germination" as defined in RCW 15.49.011(13) means the emergence and development from the seed embryo of those essential structures which, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions.

"Interagency certification" means the participation of two or more official certifying agencies in performing the services required to certify the same lot or lots of seed.

"Isolation standards" means the distance in feet from any contaminating source (i.e., distance from other fields of same species).

"Label" as defined in RCW 15.49.011(18) includes a tag or other device attached to or written, stamped, or printed on any container or accompanying any lot of bulk seeds purporting to set forth the information required on the seed label by chapter 15.49 RCW, and may include other information including the requirement for arbitration.

"Land standards" means the number of years that must elapse between the destruction of a stand of a kind, and establishment of a stand of a specified class of a variety of the same kind (i.e., number of years out of production of same crop kind).

"Mixture, mixed or mix" as defined in RCW 15.49.-011(22) means seed consisting of more than one species, each in excess of five percent by weight of the whole.

"Nursery" means an area of two acres or less in which grass for seed production is seeded in rows with twenty-four inch minimum spacing to facilitate roguing.

"O.E.C.D." means the Organization for Economic Cooperation and Development certification scheme.

"Off-type" means a plant or seed which deviates in one or more characteristics from that which has been described as being usual for the strain or variety.

"Official certificate" means a document issued by an official testing agency including but not limited to seed certification tags, bulk seed certification certificates, phyto-sanitary certificates, laboratory sanitary certificates, and other letters, tags, stamps, or similar documents certifying seed quality or condition.

"Official sample" as defined in RCW 15.49.011(23) means any sample taken and designated as official by the department.

"Official seed laboratory" means a seed testing laboratory approved by the director, such as, but not limited to, Washington State Seed Laboratory, 21 N 1st Avenue, Yakima, Washington; and Oregon State Seed Laboratory, Oregon State University, Corvallis, Oregon. This definition is to include any laboratory that has an accreditation process in place.

"Origin" means the county within the state of Washington, or the state, territory, or country where a specific seed lot was grown.

"Person" as defined in RCW 15.49.011(26) means an individual, partnership, corporation, company, association, receiver, trustee or agent.

"Proprietary variety" means that crop variety for which a person has exclusive production and/or marketing rights.

"Representative sample" means a sample drawn in accordance with sampling procedures adopted in WAC 16-301-095.

"Seeds" as defined in RCW 15.49.011(33) means agricultural or vegetable seeds, or other seeds as determined by rules adopted by the department. The word seed or seeds as used in this chapter shall include all propagating materials.

"Seed labeling permit" means a permit issued by the department pursuant to RCW 15.49.400 to a person labeling seed for distribution in this state.

"Seed program advisory committee" means a committee of representatives from the small grains, pea, lentil, bean, vegetable, small seeded legumes, and grass seed industries selected by the program manager in consultation with the industry.

"Seed standards" means the tolerances permitted as determined by established seed inspection procedures.

"Serology" means precipitation, agglutination, immunodiffusion, or labeled antibody test methods (such as ELISA) that use the specificity of antigen-antibody reactions to detect and identify antigenic substances and the organisms such as viruses and bacteria that carry viruses.

"Stock seed" means breeders, prebasic, or like initial generation of seed.

"Sudangrass" means *Sorghum bicolor x drummondii*.

"University" means the Washington State University.

"USDA" means the United States Department of Agriculture.

"Vegetable seeds" as defined in RCW 15.49.011(38) include the seeds of all crops that are grown in gardens and on truck farms and are generally known and sold under the name of vegetable or herb seeds in this state.

"WSCIA" means the Washington State Crop Improvement Association.

[Statutory Authority: Chapters 15.49 and 34.05 RCW. 03-18-072, § 16-301-005, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 00-24-077, § 16-301-005, filed 12/4/00, effective 1/4/01.]

WAC 16-301-010 What publications are adopted in chapters 16-301, 16-302, and 16-303 WAC and where can they be obtained? (1) The AOSCA rules and procedures for certification adopted in the year 2003. A copy may be obtained by writing; AOSCA, 600 Watertower Lane, Suite D, Meridian, Idaho 83642-6286.

(2) The AOSA rules for testing seed adopted in the year 2003. A copy may be obtained by contacting the administrative office for AOSA at McBride and Associates, Inc., P.O. Box 80705, Lincoln, NB 68501-0705.

(3) The Federal Seed Act and Code of Federal Regulations (CFR) Part 201 as revised January 1, 1998. A copy may be obtained by writing to the USDA, AMS, Washington, D.C. 20250.

[Statutory Authority: Chapters 15.49 and 34.05 RCW. 03-18-072, § 16-301-010, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 00-24-077, § 16-301-010, filed 12/4/00, effective 1/4/01.]

WAC 16-301-055 Tolerances for seed law enforcement. Tolerances for seed law enforcement shall be in accord with the code of federal regulations, C.F.R. Title 7, Section 201 as revised January 1, 1998 and/or those adopted by the Association of Official Seed Analysts, as amended on October 1, 2003, except for the tolerances for prohibited noxious and restricted noxious weed seed which shall be as the Washington state seed law specifies for labeling.

[Statutory Authority: Chapters 15.49 and 34.05 RCW. 03-18-072, § 16-301-055, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 00-24-077, § 16-301-055, filed 12/4/00, effective 1/4/01.]

Chapter 16-302 WAC
GENERAL RULES FOR SEED CERTIFICATION

(Formerly chapters 16-300, 16-304, 16-313, 16-316, 16-317, 16-318, 16-493, 16-494 and 16-495)

WAC

16-302-045 How may a person apply for seed certification in Washington state?
16-302-110 Completion of seed certification—When may seed be labeled with a seed certification tag, label or seal?
16-302-150 Eligibility for interagency certification.
16-302-155 Interagency seed certification procedure.
16-302-255 Land requirements for bean seed certification.
16-302-385 Grass seed standards for certification.
16-302-410 Standards for sod quality seed.

WAC 16-302-045 How may a person apply for seed certification in Washington state? If a person wishes to participate in the Washington state seed certification program, you must submit an application to the appropriate certifying agency.

(1) An application for seed certification must be submitted for each crop, variety and field.

(2) Applications may be obtained from a certified seed processor or the certifying agency listed in WAC 16-302-010.

(3) The applicant is responsible for payment of all fees. Washington State University, its official agents and USDA Plant Material Center are exempt from paying fees on seed stock.

(4) The applicant must attach to the application for seed certification official tags/labels and/or other verification from seed stock planted. The applicant must also attach proof of quarantine compliance when required, under chapter 16-301 WAC. Refer to chapter 16-303 WAC for appropriate fees.

(5) When it is necessary for a grower to reseed due to a failure to get a stand, the grower will retain records of seed lots used and the date of reseeding. Reseeding must be done within two years of the original planting date for grasses or within one year for all other crops. If seed stock of a different lot is used for reseeding, the grower must submit proof of seed stock used on a seedling application form. An additional application fee will be charged.

[Statutory Authority: Chapters 15.49 and 34.05 RCW. 03-18-072, § 16-302-045, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 00-24-077, § 16-302-045, filed 12/4/00, effective 1/4/01.]

WAC 16-302-110 Completion of seed certification—When may seed be labeled with a seed certification tag, label or seal? (1) The seed certification tag, label or seal is evidence of the genetic identity and purity of the contents must be attached to a container of certified seed prior to distribution. Seed that fails to meet certification standards because of genetic purity is not eligible for labeling.

(2) Seed certification tags, labels, and seals must be obtained from the certifying agency except as allowed in WAC 16-302-390, and must be attached to seed containers in accordance with the certifying agency's rules.

(3) Certification of seed is valid only if the tag, label or seal is affixed to each container in accordance with the AOSCA procedures as shown in WAC 16-301-010.

(4) No tag, label or seal may be removed and reused without permission of the certifying agency.

(5) A certified seed sale certificate will be issued upon completion of final certification for all seed to be sold in bulk. This certificate must accompany any shipment or transfers including those to other seed plants, out-of-state shipments or with any brokered seed. The seed plants own invoice may be used in lieu of a certified seed sale certificate for retail sales to growers.

(6) Seed that fails to meet certification requirements on factors other than genetic purity may be designated substandard at the discretion of the certifying agency. The certification tag or label attached to the seed must clearly show the reason the seed is substandard. Seed may not be tagged substandard if the seed can be remilled to meet minimum seed standards.

(7) Refer to chapter 16-301 WAC for seed labeling requirements.

[Statutory Authority: Chapters 15.49 and 34.05 RCW. 03-18-072, § 16-302-110, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 00-24-077, § 16-302-110, filed 12/4/00, effective 1/4/01.]

WAC 16-302-150 Eligibility for interagency certification. (1) Seed recognized for interagency certification must be received in containers carrying official certification labels or evidence of its eligibility from another official certifying agency together with the following information:

(a) Variety and species;

(b) Quantity of seed;

(c) Class of seed; and

(d) Field or lot number traceable to the previous certifying agency's records.

(2) Seed tagged and sealed with official certification tags is eligible for interagency certification without obtaining approval from the certifying agency of the originating state.

(3) An "interagency certified seed" report form must be submitted to all certifying agencies involved. Forms can be obtained from the department seed program. Information required to complete the form includes:

Part A

- Name
- Address of shipper
- Destination
- Shipping weight
- Lot number
- Grower name
- Field number
- Date of seed shipment
- Amount of seed used

Part B

- Date shipment is received by the receiving state
- Receiving weight and lot number
- Clean weight
- Bag count
- New lot number if different than the receiving lot number
- Screenings weight

(4) Certified seed not tagged and sealed with official certification tags must follow the interagency certification procedure in WAC 16-302-155.

[Statutory Authority: Chapters 15.49 and 34.05 RCW. 03-18-072, § 16-302-150, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 00-24-077, § 16-302-150, filed 12/4/00, effective 1/4/01.]

WAC 16-302-155 Interagency seed certification procedure. Certified seed that is produced in Washington state and shipped out-of-state must comply with the interagency seed certification procedure.

(1) The interagency seed certification procedure for field pea, lentil, soybean, small grain and sorghum seed is as follows:

(a) A certified seed sale certificate must be executed by the department for unprocessed seed pending final certification when moved out-of-state.

(b) Unprocessed seed pending final certification is subject to all certification fees when moved out-of-state.

(2) The interagency seed certification procedure for all other kinds of seed except field pea, lentil, soybean, small grain and sorghum seed shipped out-of-state is as follows:

(a) Obtain approval of all certifying agencies involved prior to shipment:

- Complete section (A) of "interagency certified seed" report referred to in WAC 16-302-150(3). Prior to shipment one copy of the "interagency certified seed" report must be submitted to the department seed program and one copy to the certifying agency where seed is being processed.
- Clearly mark each container with the lot number and Washington field number.

(b) Upon completion of seed processing, section (B) of "interagency certified seed" report referred to in WAC 16-302-150(3) must be completed and submitted to the department seed program.

- If the department is to finalize certification, a representative of the certifying agency in the receiving state must draw an official sample. The sample must be submitted to the department seed program.
- When Washington state certification tags are used, the lot must be tagged and sealed under supervision of the department. The applicant must pay a mileage fee and hourly rate for all additional mileage and travel time required.
- When Washington state interagency tags are used, the tags must be mailed to the nearest representative of the certifying agency having jurisdiction for tagging.

(c) If another state receives seed and finalizes certification, the department must advise the receiving state's certifying agency of certification eligibility. Sampling, testing, and tagging shall be in accordance with the receiving state's requirements.

(d) The applicant for interagency seed certification is responsible for all fees authorized under Washington's certification program and any additional fees that may be assessed by both agencies involved. Fees for Washington's interagency certification program must be paid upon submission to the department of the "interagency certified seed" report, section (A).

[Statutory Authority: Chapters 15.49 and 34.05 RCW. 03-18-072, § 16-302-155, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 00-24-077, § 16-302-155, filed 12/4/00, effective 1/4/01.]

WAC 16-302-255 Land requirements for bean seed certification. Land requirements for the production of bean seed are as follows:

(1) A field to be eligible for the production of certified class must not have been planted to beans of a different variety the preceding one year.

A field to be eligible for the production of foundation or registered classes must not have been planted to beans for the previous three years unless those beans were of the same variety of equal or higher class. The fields must be free of bacterial diseases during the previous two years of planting.

(2) A bean field is not eligible for production of certified seed for more than two consecutive years.

[Statutory Authority: Chapters 15.49 and 34.05 RCW. 03-18-072, § 16-302-255, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 00-24-077, § 16-302-255, filed 12/4/00, effective 1/4/01.]

WAC 16-302-385 Grass seed standards for certification. The seed standards for grass shall be as follows:

SEED STANDARDS

CROP AND TYPE OF REPRODUCTION AS PER WAC 16-302-330		MINIMUM % GERM (d)(n) FNDT. REG.	MINIMUM % GERM (d)(n) CERT.	MINIMUM % PURE FNDT. REG.	MINIMUM % PURE CERT.	MAXIMUM % INERT FNDT. REG.	MAXIMUM % INERT CERT.	MAXIMUM % WEEDS (b) FNDT. REG.	MAXIMUM % WEEDS (b) CERT.	MAXIMUM % OTHER CROPS FNDT. (i) REG. (i)	MAXIMUM % OTHER CROPS CERT. (a)	MAXIMUM SEEDS OF OTHER CROP GRASS SPECIES FNDT. SEEDS/ LB.	MAXIMUM SEEDS OF OTHER CROP GRASS SPECIES REG. SEEDS/ LB.	MAXIMUM SEEDS OF OTHER CROP GRASS SPECIES CERT. %
BLUEGRASS														
Big	(A)	70	70	90	90	10	10	.05	.3	.1	.5	45 /lb.	454 /lb.	.25
Canby	(A)	70	70	90	90	10	10	.05	.3	.1	.5	45 /lb.	454 /lb.	.25
Kentucky	(A)	80	80	97	97	3	3	.05	.3	.1	.5	45 /lb.	454 /lb.	.25
Canada, Upland	(A)	80	80	96	92	4	8	.05	.3	.1	.5	45 /lb.	907 /lb.	.25
BROMEGRASS														
Smooth & Meadow	(C) (C)	80	85	95	95	5	5	.05	.3 (c)	.1	.5	9 /lb.	91 /lb.	.25
Mountain & Sweet		85	85	95	95	5	5	.3	.3 (c)	.1	1.0	9 /lb.	91 /lb.	.25
DEERTONGUE	(C)	50	50	97	95	3	5	.50	.5 (c)	1.0	1.0	1%		
FESCUE														
Tall & Meadow	(C)	80	85	95	97	5	3	.03	.3 (c)	.1	.5	18 /lb.	91 /lb.	.25
Hard & Sheep (m)														
Turf Type (o)	(C)	80	85	95	97	5	3	.03	.3 (c)	.1	.5	9 /lb.	45 /lb.	.25
Reclamation/Range														
Type		80	85	95	92	5	8	.03	.3 (c)	.1	.5	9 /lb.	45 /lb.	.25
Chewings Red,	(C)	80	90	95	97	5	3	.03	.3 (c)	.1	.5	9 /lb.	45 /lb.	.25
Idaho and other														
Fescue														
ORCHARDGRASS	(C)	80	85	85	90	15	10	.03	.3 (c)	.1	.5	27 /lb.	91/lb.	.25
			80 for	penlate	& latar									
RYEGRASS		85	90 (l)	96 (k)	97 (k)	4	3	.1	.3 (c)	.1	.5	9 /lb.	45 /lb.	.25
Pennfine	(C)	80	85	96 (k)	97 (k)	4	3	.1	.3 (c)	.1	.5	9 /lb.	45 /lb.	.25
TIMOTHY		80	85	97	97	3	3	.1	.3	.1	.5	9 /lb.	45 /lb.	.25
WHEATGRASS (n)														
Beardless	(C)	80	85	90	90	10	10	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25
Bluebunch	(C) (C)	80	85	90	90	10	10	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25
Intermediate, Tall	(C)	80	85	95	95	5	5	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25
Pubescent		80	85	95	95	5	5	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25
Western, R/S														
Streambank,	(C)													
Thickspike	(S)	80	85	90	90	10	10	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25
Slender	(C)	80	85	90	95	10	5	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25
Crested & Siberian		80	85	90	95	10	5	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25
INDIAN														
RICEGRASS	(S)	80 (j)	80 (j)	95	90	5	10	.3	.5	.5	1.0	9 /lb.	45 /lb.	.25
PUCCINELLIA (n)														
distans	(C)	80	80	90	95	5	5	.3	.5	.5	1.0	45 /lb.	454 /lb.	.25
WILDRYE (n)	(C)	80	80	90	90	10	10	.1	.3 (c)	.1	.5	9 /lb.	45 /lb.	.25
BENTGRASS	(C)	85	85	98	98	2	2	.3	.4 (f) (g)	.2	.6 (h)			
REDTOP	(C)	80	80	92	92	8	8	.3	.5 (f)	.5	.2			
Ann.														
CANARYGRASS	(C)	85	85	99	99	1	1	.1	.3	1/lb.	3/lb.			
GREEN (n)	(C)	80	80	80	80	20	20	.1	.3 (c)	.1	.5	-	-	-
NEEDLEGRASS														
SWITCHGRASS	(C)	60	60	90	90	10	10	.5	1.5	.1	.25			

The following (a) - (o) are notes to the above table.

(a) Not to exceed .25% other grass species for blue tag seed.

(b) Grass seed must not contain more than 45/lb. for registered seed 91/lb. for certified seed, singly or collectively, of objectionable weed seeds. (See (f) of this subsection for certified bentgrass and redtop exemption.) Grass seed shall be free of the seed of prohibited noxious weeds.

(c) A tolerance of 0.5% may be allowed for samples containing weedy bromus spp provided the total of all other weed seeds does not exceed 0.3%.

(d) A standard tetrazolium (two hundred seed) test may be used in lieu of germination test. NOTE: State and federal seed laws require seed be labeled on a germination test.

(e) A tolerance of 0.8% may be allowed in registered and certified wheatgrass containing small grain seed provided the total of all other crop seed does not exceed 0.1% for registered class and 0.5% for certified class.

(f) Certified seed must not contain over 907 seeds per pound, singly or collectively, of the following weeds: Plantago spp., Big Mouse-ear Chickweed, Yarrow, Spotted Cat's Ear, and Dandelion.
(g) A maximum of .50% weed seed may be allowed in certified bentgrass containing silver hairgrass provided the total of all other weed seed does not exceed .40%.
(h) 1.50% other fine bentgrasses and .50% redtop may be allowed in certified bentgrass containing a minimum of 98.00% total bentgrass.
(i) A crop exam is required for all registered and foundation class grass seeds.
(j) Or 70% by Tz test.
(k) Maximum other ryegrass allowed as determined by fluorescence test: Foundation 0.1%, registered 1%, certified 2% for annual and 3% for perennial containing a minimum of 97% total ryegrass. Acceptable fluorescence levels for specific varieties available upon request.
(l) 85% minimum germination allowed on ryegrass varieties as designated by the breeder or variety owner. See list maintained by the seed program.
(m) An ammonia test is required on hard and sheep fescue to determine presence of other Fescue sp. Other fine-leaved fescue found in the ammonia test will be included with other crop not other grass species.
(n) Total viability as allowed in WAC 16-302-170 can be substituted for germination percentage.
(o) Turf type fescues 97% pure seed. Range/reclamation types 92% pure seed. Varietal designation of turf or range/reclamation types are to be made by the breeder or variety owner. If no designation is made, the variety will be considered a turf type.

[Statutory Authority: Chapters 15.49 and 34.05 RCW. 03-18-072, § 16-302-385, filed 8/29/03, effective 9/29/03; 02-12-060, § 16-302-385, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 00-24-077, § 16-302-385, filed 12/4/00, effective 1/4/01.]

WAC 16-302-410 Standards for sod quality seed. (1) Except for ryegrass sod quality seed, seed standards for sod quality grass seed are as follows:

Variety	Minimum Purity	Minimum Germination	Maximum* Other Crop	Maximum** Weed
Kentucky Bluegrass	97%	80%	0.1%	.02%
Red Fescue	98%	90%	0.1%	.02%
Chewings Fescue	98%	90%	0.1%	.02%
Tall Fescue	98%	85%	0.1%	.02%

* Must be free of ryegrass, orchardgrass, timothy, Agrostis sp., black medic, Poa trivialis, brome, reed canarygrass, tall fescue, clover, and meadow foxtail. Maximum allowable Canada bluegrass .02%. When the base sample is one of these kinds, the species will not be considered a contaminant (i.e., tall fescue in tall fescue).
** Must be free of Big, Canby and Sandberg bluegrass, dock, chickweed, crabgrass, plantain, short-awn foxtail, annual bluegrass, velvetgrass, rattail fescue and noxious weed seeds as listed under WAC 16-302-100 and 16-302-105.

(2) Seed standards for sod quality ryegrass seed are as follows:

Variety	Minimum Purity	Germination****	Other Crop*	Maximum Weed***
Ryegrass**	98%	90%	0.10%	.02%

* Must be free of black medic, orchardgrass, timothy, Agrostis sp., Poa trivialis, brome, reed canarygrass, tall fescue, clover and meadow foxtail. Maximum allowable Canada bluegrass 0.02%.
** Maximum fluorescence levels as determined by breeder or variety owner.
*** Must be free of Big, Canby and Sandberg bluegrass, rattail fescue, dock, chickweed, crabgrass, plantain, annual bluegrass, velvetgrass, short-awn foxtail, and noxious weed seeds as listed under WAC 16-302-100 and 16-302-105. An additional 0.07% of weedy Bromus spp. will be allowed.
**** 85% minimum germination allowed on ryegrass varieties as designated by the breeder or variety owner. See list maintained by the seed program.

(3) A sod seed analysis certificate is the basis of determining if a lot meets sod quality standards. This certificate is issued by the certifying agency and represents a purity analysis, a twenty-five gram noxious all weed all crop exam and a germination test, except a 50-gram noxious all weed all crop exam is required for fescues and ryegrass.

(4) In addition to a seed certification tag, seed meeting sod quality certified seed standards will be tagged with a special "sod quality seed" tag.

[Statutory Authority: Chapters 15.49 and 34.05 RCW. 03-18-072, § 16-302-410, filed 8/29/03, effective 9/29/03; 02-12-060, § 16-302-410, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 00-24-077, § 16-302-410, filed 12/4/00, effective 1/4/01.]

Chapter 16-303 WAC

SEED ASSESSMENT, FEES FOR SEED SERVICES AND SEED CERTIFICATION

(Formerly chapters 16-300, 16-304, 16-313, 16-316, 16-317, 16-318, 16-493, 16-494 and 16-495 WAC)

WAC

16-303-200 Seed program testing fees.
16-303-210 Fees for special seed tests.
16-303-220 Repealed.
16-303-230 Official seed sampling or similar service.
16-303-240 Fees for blending seed.
16-303-250 Miscellaneous charges for seed services.
16-303-300 Phyto-sanitary certification of seed—Fees.
16-303-310 Organization for economic cooperation and development scheme for varietal certification (O.E.C.D.) fees.
16-303-315 Service fee for sod quality seed tags and tagging.
16-303-317 Annual and rough bluegrass quarantine fees.
16-303-320 Certification fees for seed certified by the department.
16-303-330 Repealed.
16-303-340 Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-303-220 Inventory testing for seed germination. [Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-220, filed 12/6/00, effective 1/6/01.] Repealed by 03-18-071, filed 8/29/03, effective 9/29/03. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308.

16-303-330 Certification fees for grass seed. [Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-330, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-330, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-330, filed 12/6/00, effective 1/6/01.] Repealed by 03-18-071, filed 8/29/03, effective 9/29/03. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308.

WAC 16-303-200 Seed program testing fees. Seed testing fees are as follows:

(1)

Category	Crop kind	PURITY	GERM/1	TZ	Additional Crops in each Category/2
1	Agricultural Grasses	37.00	22.60	41.83	Alkaligrass, Bermudagrass, Canarygrass, Foxtail, Switchgrass, Timothy, Zoysia
2	Alfalfa & Clover	28.78	24.66	41.83	Alfalfa, Black Medic, Clover, Lupine, Milkvetch, Sainfoin, Trefoil
3	Beans	26.72	24.66	41.83	Beans
4	Beets	39.06	43.16	41.83	Beets, Swiss chard, spinach
5	Bentgrass, redtop	65.78	34.94	41.83	Bentgrass, redtop
6	Bluegrass	45.22	30.82	41.83	Bluegrass, all types
7	Brassica sp.	69.88	34.94	41.83	Brassica Species
8	Brome	47.28	24.66	41.83	**Brome:** Mountain, Smooth, Meadow
9	Fescue	37.00	24.66	41.83	**Fescue:** Tall and Meadow
10	Fescue, all others	45.22	24.66	41.83	**Fescue:** Arizona, Blue, Blue Hard, chewings, creeping, Hard, Idaho, Red, Sheep
11	Flax	28.78	24.66	41.83	Lewis flax
12	Orchardgrass	51.38	26.72	41.83	Orchardgrass
13	Peas	28.78	24.66	41.83	Peas, other large seeded legumes
14	Primrose	28.78	24.66	41.83	Primrose
15	Ryegrass	45.22	22.60	41.83	Ryegrass, (Perennial or Annual)
16	Small burnet	28.78	24.66	41.83	Small burnet
17	Sudangrass	28.78	24.66	41.83	Sudangrass
18	Vegetables	28.78	24.66	45.00	**Vegetables:** Asparagus, Cabbage, Cantaloupe, Carrot, Celery, Chard, Corn, Coriander, Cucumber, Dill, Eggplant, Endive, Kale, Leek, Lettuce, Okra, Onion, Parsley, Parsnip, Pepper, Pumpkin, Radish, Squash, Tomato, Turnip, Watermelon
19	Grains and Pulses	28.78	24.66	41.83	Wheat, Triticale, Sunflower, Sorghum, Safflower, Rye, Rice, Millet, Lentils, Buckwheat, Barley, Oats, Chickpeas, Vetch
20	Wheatgrass, Wildrye, other native sp.	78.12	30.82	41.83	**Wheatgrass:** Beardless, Bluebunch, Crested, Intermediate, Pubescent, R/S, Slender, Siberian, Tall, Thickspike, Western Wildrye **Other Native Species:** Echinacea, Green needlegrass, Indian ricegrass, Junegrass, Little bluestem, Needle and Thread, Squirreltail, Kochia, Penstemon, Oatgrass, Prairie sandreed, Sand dropseed, Sand Lovegrass, Sideoats grama

/1 Standard 400 seed germination test.

(2) Crops not listed in the above table will be charged by the category that they fit into.

[Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-200, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-200, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-200, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-200, filed 12/6/00, effective 1/6/01.]

WAC 16-303-210 Fees for special seed tests.

Test	Fee	Additional Information
(1) All states noxious weed examination	$ 33.38	
(2) **Dormant Seed Test**	$ 41.83	
(3) (a) For crops requiring a 400 seed TZ as required in the AOSA rules. This fee also applies to paired tests when required by AOSA rules	$ 83.66	
(4) Brassica seed chemical identification	$ 20.94	
(5) Cold (vigor) test for wheat	$ 65.00	
(6) **Crop or weed exam**		Standard noxious amount from AOSA rules
Turf-type and other small seeded grasses	$ 38.00	Kentucky bluegrass, timothy, alkaligrass, fine-leaved fescues
Small seeded legumes and medium seeded crops	$ 44.00	Brassicas, ryegrass, tall fescue
Wheatgrass and native species	$ 50.00	
Grains and pulses	$ 22.00	
(7) Fescue seed ammonia test	$ 30.82	
(8) Fluorescence test (400 seed test)	$ 26.72	
(9) Miscellaneous services, samples requiring extra time, field run samples, etc.	$ 30.00/hour	
(10) Pest and disease (phyto exam) or soil exam	$ 34.94	
(11) Quarantine tests on seed		
Bluegrass and Bentgrass	$ 18.04/5 grams	
Other grasses	$ 18.04/10 grams	
(12) Rules test—Canadian	PURITY	GERMINATION
Alfalfa, clover, peas, lentils	$ 32.37	$ 24.66
Kentucky bluegrass	$ 49.34	$ 30.82
Bentgrass	$ 72.47	$ 34.94
(13) Rules test—I.S.T.A.	PURITY	GERMINATION
Alfalfa, clover, peas, lentils	$ 32.37	$ 30.82
Kentucky bluegrass	$ 49.34	$ 30.82
(14) Moisture test	$ 30.00	
(15) Seed Count	$ 21.84	
(16) Outstanding charge	$ 15.00	
(17) Sod seed analysis	Bluegrass $ 75.00	
	Fescue $ 52.00	
	Ryegrass $ 42.00	
(18) Sodium Hydroxide test for presence of red and/or white wheat	$ 20.54	
	$ 18.04	Reported on seed analysis certificate
(19) Undesirable grass species test (includes an all states noxious test) examination (UGS test)	$ 70.37	

[Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-210, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-210, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-210, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-210, filed 12/6/00, effective 1/6/01.]

WAC 16-303-220 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-303-230 Official seed sampling or similar service. Fees for official sampling are in addition to travel time and mileage.

Crop	Fee	Minimum charge
Peas, beans, small grains or seeds of similar size	$ 0.05 Per cwt.	$ 30.00
For all other kinds	$ 0.15 Per cwt.	$ 30.00

[Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-230, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-230, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-230, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-230, filed 12/6/00, effective 1/6/01.]

WAC 16-303-240 Fees for blending seed. Blending fee is not applicable to salvage blends.

Grass option B*	Washington origin seed	$ 1.02 per cwt.
Grass option B*	Out-of-state origin	$ 0.61 per cwt.
Grass option A and all other blends of other crops		$ 0.05 per cwt.

*See WAC 16-303-320, footnote 6 for information on option A and option B.

[Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-240, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-240, filed 12/6/00, effective 1/6/01.]

WAC 16-303-250 Miscellaneous charges for seed services. Fees for miscellaneous department seed services are as follows:

Service	Fee
Rush samples (including phone or FAX report if requested at time sample is submitted)	$ 15.00
High priority sample - purity result completed before the end of the next business day. (Special circumstances only. Call ahead for availability.)	$ 150.00
Phone reports on test result, per call	$ 7.18
Preliminary report on germination	$ 20.00
Additional mailing of report	$ 5.12 each destination
Additional copies of reports	$ 5.12 minimum fee
Revised reports	$ 10.26 minimum (hourly fee when applicable)
Fee for special shipping and handling service, for example Federal Express, Air Parcel or air freight	$ 3.70 plus exact shipping cost
Fee for facsimile transmission of documents	$ 5.39 per document
Mileage - additional or special requested trips	As established by the Washington State Office of Financial Management
Stand-by time - or travel time $ 30.00/hour	Travel time to be charged when special trip is requested.
Sample envelopes	Customer will be charged the exact cost of the envelopes.

[Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-250, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-250, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-250, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-250, filed 12/6/00, effective 1/6/01.]

WAC 16-303-300 Phyto-sanitary certification of seed—Fees.

Service	Fee	Additional Information
Phyto-sanitary certificate	$ 30.00	
Field inspection—All seed except wheat seed (for each required inspection)	$ 5.30 per acre, per required inspection	$ 50.00 minimum fee, per inspection
Field inspection—Wheat seed only	$ 2.12 per acre or fraction thereof	$ 50.00 minimum fee, per inspection
Area inspection (billed at time certificate is issued)	$ .05 per cwt.	$ 50.00 minimum fee per certificate $ 159.25 maximum fee per certificate
Late fee - per application	$ 41.00	

[Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-300, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-300, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-300, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-300, filed 12/6/00, effective 1/6/01.]

WAC 16-303-310 Organization for economic cooperation and development scheme for varietal certification (O.E.C.D.) fees. In addition to fees required by applicable Washington certification rules, the following fees shall apply to all seed tagged O.E.C.D. and is payable by the person requesting O.E.C.D. certificate. The certifying agency may require fees paid in advance:

Service	Fee	Additional Information
O.E.C.D. certificate	$ 15.41 each	
O.E.C.D. grow out test	$ 65.72 each entry	No charge for control entry
O.E.C.D. assessment	cost to program	
O.E.C.D. tagging fee	$ 0.84/cwt. $ 0.53/cwt.	grasses all other crops

[Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-310, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-310, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-310, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-310, filed 12/6/00, effective 1/6/01.]

WAC 16-303-315 Service fee for sod quality seed tags and tagging. Service fee for sod quality seed tags and tagging shall be $ 0.12 per cwt.

[Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-315, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-315, filed 12/6/00, effective 1/6/01.]

WAC 16-303-317 Annual and rough bluegrass quarantine fees. Fees for sampling and analysis for the presence of annual or rough bluegrass are those fees established in this chapter and:

(1) Annual bluegrass and rough bluegrass - inspection fee for nursery plantings for the presence of annual bluegrass

is $ 59.10 per acre or portion thereof. The tagging fee is $ 0.53 cwt. with a minimum fee of $ 23.12.

(2) Quarantine inspection of grass seed fields found to be in violation of the quarantine requirements will be charged at the rate of $ 150.00 per field inspection.

[Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-317, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-317, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-317, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-317, filed 12/6/00, effective 1/6/01.]

WAC 16-303-320 Certification fees for seed certified by the department. (1) Fees apply to both new and renewal applications.

The seed processor is responsible for seed certification fees including sampling, testing, production and final certification fees, and may accept responsibility for any other additional fees associated with certification. Fees for services such as O.E.C.D. and sod quality, etc., are in addition to the fees listed in this section.

Seed	Application Fee 1/	Seedling producing or field inspection Fee 2/	Late Application Penalty Fee	Reinspection Fee (other than isolation)	Production Fee (includes tagging) 7/	Seed shipped Out-of-State (uncleaned)
Alfalfa, Red clover, White clover and Trefoil	$ 23.12 per variety per grower	$ 1.85/acre	$ 41.00	$ 53.44 ea. field	$ 0.53/cwt. 5/	$ 0.20/cwt.
Bean	$ 23.12 per variety per grower	$ 1.85/acre 3/ (one inspection) $ 3.70/acre 4/ (two inspections)	$ 41.00	$ 53.44 ea. field	$ 0.53/cwt.	$ 0.20/cwt.
Turnip, Rutabaga	$ 23.12 per field	$ 3.70/acre (two inspections)	$ 41.00	$ 53.44 each field	$ 0.53/cwt.	$ 0.20
Perennial Grasses 6/	$ 23.12 per field	$ 41.00 per field	$ 41.00	$ 53.44 each field	Option A $ 0.84/cwt. Option B $ 1.17/cwt. (min. $ 11.66)	$ 0.31
Corn	$ 23.12 for each separate combination/or isolation	$ 50.00 first acre $ 10.99 ea. additional acre except hybrid corn $ 4.85 ea. additional acre	———	———	———	———
Annual grasses	$ 23.12 per field	$ 1.85/acre	$ 41.00 per field	———	$ 0.42/cwt.	$ 0.20
Rapeseed	$ 23.12 per variety per grower	$ 1.85/acre (one inspection)	$ 41.00 per grower	$ 53.44 ea. field	$ 0.53/cwt.	$ 0.20

1/ Seed certification application due dates can be found in WAC 16-302-050.

2/ Seedling producing or field inspection fees are refundable if the acreage is withdrawn before the inspection is completed. In the case of bean seed, fees are required of seedling fields to be harvested for certification the year of planting.

3/ One inspection is required for Great Northern Red Mexican, pinto, pink, and small white bean.

4/ Includes windrow inspection which is required for certification of snap beans, kidney beans, and eligibility for shipment into the state of Idaho.

5/ Production fees are billed at completion of laboratory analysis tests. If no seed is tagged, $ 0.10 of the $ 0.53 per cwt. production fee is refundable.

6/ Option A: Inspection and final certification fees are based on pounds sampled and billed upon completion of required laboratory tests.

Option B: Inspection and final certification fees are based on pounds tagged after required laboratory tests are completed. Those dealers requesting sampling and tagging privileges and/or participation in Option B must sign a memorandum of agreement that shall expire on June 30 of each year. The memorandum may be terminated by the director if the conditioner violates certification standards or requirements of memorandum.

7/ Does not include shipping and handling charge.

(2) Other fees associated with grass seed certification:

Out-of-state origin seed tagged with interagency certification tags.

Grass Option A:	$ 0.31 per cwt.
Grass Option B:	$ 0.68 per cwt.
Reissuance of cert. tags:	$ 0.11 per tag or minimum fee of $ 11.66

[Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-320, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-320, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-320, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-320, filed 12/6/00, effective 1/6/01.]

WAC 16-303-330 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-303-340 Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains. (1) Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains are as follows:

(a) Application fee per variety per grower	$20.02
(b) Field inspection fee per acre except millet and hybrid sorghum	$2.78
(c) Millet - first acre	$29.78

- each additional acre	$5.94
(d) Hybrid sorghum - first acre	$29.78
- each additional acre	$11.90
(e) Special field inspection fee per acre	$2.37
(f) Late application fee	$18.76
(g) Reinspection fee	$37.56

minimum for each field which did not pass field inspection plus $ 0.41 for each acre over twenty-five. The reinspection fee for isolation requirements only for a field of any size is $ 37.56.

(h) Final certification fee	$0.235

per cwt. of clean seed sampled, which is charged to conditioning plant, or production fee $0.105

per cwt. of production from fields inspected which is utilized for seed, which is charged to the grower or the final seller prior to brokerage, retail sale, sale to plant not approved for conditioning certified seed, or transshipment out-of-state.

(i) Sampling fee	$0.105

per cwt. of clean seed sampled, with minimum charge of ten dollars per sample, which is charged to conditioning plant in lieu of mechanical sampling.

(2) A field may be withdrawn upon notification by the applicant to the certifying agency's office before field inspection. In such case, the field inspection fee is refunded upon request until June 30 of the year following harvest.

(3) Harvest before field inspection causes forfeitures of both the application and field inspection fees, and completion of certification.

[Statutory Authority: RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. 03-06-005, § 16-303-340, filed 2/20/03, effective 3/23/03; 02-05-082, § 16-303-340, filed 2/20/02, effective 3/23/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-340, filed 12/6/00, effective 1/6/01.]

Chapter 16-319 WAC

FOREST TREE SEED CERTIFICATION

WAC

16-319-041 Application for certification of forest reproductive material.

WAC 16-319-041 Application for certification of forest reproductive material. (1) The conditions of applicant's submittal and of certifying agency's acceptance of application are:

(a) The application should show all classes for which certification services are requested.

(b) All reproductive material acquired or distributed by applicant of a type for which certification is requested is subject to audit.

(c) Applicant shall be responsible for payment of fees for certification services.

(d) Applicant is responsible for developing a record keeping system and labels available and satisfactory to the certifying agency.

(e) Certifying agency reserves the right to refuse certification service to applicant.

(f) Application for audit certification reproductive material shall be filed with certifying agency of the state in which warehouse, nursery, etc., is located with a copy to the certifying agency in the state where the reproductive material is collected.

(2) Timing of application requests for certification services:

(a) Application requests for source identified subclass B and lower classes for the current year's production of reproductive material shall be received by certifying agency from applicant not later than three days prior to initiation of collection, production, or propagation of forest reproductive material.

(b) For source identified subclass A and higher certification class, the applicant shall make application for service, and present a written plan to the certifying agency two weeks prior to the beginning of the collection season. The written plan will include the following:

(i) For subzone collection, areas shall be defined by legal description.

(ii) Details of the collection organization including names of buyers and field supervisors, estimated harvest volume, receiving station location(s), and other pertinent information.

(c) Application requests for all other services shall be received by certifying agency from applicant not later than seven days before need.

(3) The certifying agency establishes the fee schedule for certification services. These may be adjusted at the beginning of a crop year if certifying agency determines that costs are significantly more or less than anticipated: Provided, That increases shall not exceed twenty-five percent.

(a) Cones and seed:

(i) Tested and selected - the service includes review of test plans, audit of pertinent records and field inspection at the hourly job time rate shown in current fee schedule.

(ii) Source identified classes - the fee includes field inspection at the per bushel rate shown in the current fee schedule and audit of conditioning at the hourly rate also shown in the current fee schedule.

The fee for each lot containing less than sixty bushels shall be a maximum of thirty-six dollars: Provided, That the certifying agency, due to specific circumstances, may waive this maximum fee or a part thereof.

(iii) Audit class - the fee includes audit of applicant's field and conditioning records at the hourly rate shown in the current fee schedule.

(b) Trees: The fee includes the verification of the source of the trees from the seed source, stratification, sowing, bed identification, lifting, sorting, package identification, storing and/or transplanting.

(c) Not entered for certification: The fee for audit of reproductive material not entered for certification service is performed as required by and satisfactory to certifying agency to exercise said audit simultaneously with audit of reproductive material which applicant has requested certification service.

(d) The fee for certification classes applied for shall be charged whether or not offered material qualifies.

(e) The certifying agency may provide other services, such as training to comply with these standards, advising on the development of recordkeeping systems directly connected with certification needs if requested by the applicant.

(4) Fee schedule:

(a) Tree cones and seed -

Certification Classes	Field Inspection	Audit	Fee Due
Tested and Selected	$ 25.60/hr.	$ 25.60/hr.	When billed
Source Identified Classes:			
Lots 11 bu. and more	$ 0.84/bu.	$ 25.60/hr.	
Lots 6-10 bu.	$ 20.60/lot	$ 25.60/hr.	
Lots 0-5 bu.	$ 12.46/lot	$ 25.60/hr.	
Audit	None	$ 25.60/hr.	When billed

(b) Tree certification - $ 25.60/hr.

Seedling certification - experience has shown that seedling certification normally requires a minimum of five nursery visits totalling approximately thirty-two hours. Plantation certification procedures shall be billed at the hourly rate.

(c) Other services including education to comply with the standards, development of record system, verification of source of pollen, cuttings, audit of forest reproductive material not offered for certification by applicant or other services requested, etc. at $ 25.60/hr. payable when billed.

(d) OECD certification (certificates of provenance) - $ 0.59 per certificate plus the hourly audit rate. (Auditors shall issue certificates.)

[Statutory Authority: RCW 15.49.995, 15.49.310, 15.49.370(3) and chapter 34.05 RCW. 03-06-006, § 16-319-041, filed 2/20/03, effective 3/23/03;02-05-081, § 16-319-041, filed 2/20/02, effective 3/23/02. Statutory Authority: RCW 15.49.370(3). 99-24-043, § 16-319-041, filed 11/24/99, effective 12/25/99; 98-12-031, § 16-319-041, filed 5/28/98, effective 6/28/98; 96-11-044 (Order 5097), § 16-319-041, filed 5/8/96, effective 6/8/96. Statutory Authority: Chapter 15.49 RCW. 87-12-006 (Order 1930), § 16-319-041, filed 5/22/87; 84-13-079 (Order 1834), § 16-319-041, filed 6/21/84; 80-10-001 (Order 1704), § 16-319-041, filed 7/24/80; 79-05-070 (Order 1625), § 16-319-041, filed 4/30/79; Order 1506, § 16-319-041, filed 4/11/77; Order 1369, § 16-319-041, filed 6/12/74; Order 1189, § 16-319-041, filed 4/16/71; Order 1151, § 16-319-041, filed 4/16/70.]

Chapter 16-321 WAC

GRASS SOD—CERTIFICATION STANDARDS

WAC

16-321-001 through 16-321-120 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-321-001 Purpose. [Statutory Authority: Chapter 15.49 RCW. 80-06-104 (Order 1701), § 16-321-001, filed 5/30/80.] Repealed by 03-08-018, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapters 15.13 and 34.05 RCW.

16-321-010 Grass sod certification standards. [Statutory Authority: Chapter 15.49 RCW. 80-06-104 (Order 1701), § 16-321-010, filed 5/30/80.] Repealed by 03-08-018, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapters 15.13 and 34.05 RCW.

16-321-020 By whom certified. [Statutory Authority: Chapter 15.49 RCW. 80-06-104 (Order 1701), § 16-321-020, filed 5/30/80.] Repealed by 03-08-018, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapters 15.13 and 34.05 RCW.

16-321-030 Varieties eligible. [Statutory Authority: Chapter 15.49 RCW. 80-06-104 (Order 1701), § 16-321-030, filed 5/30/80.] Repealed by 03-08-018, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapters 15.13 and 34.05 RCW.

16-321-040 Application for sod certification. [Statutory Authority: Chapter 15.49 RCW. 80-06-104 (Order 1701), § 16-321-040, filed 5/30/80.] Repealed by 03-08-018, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapters 15.13 and 34.05 RCW.

16-321-050 Certification fees. [Statutory Authority: Chapter 15.49 RCW. 80-06-104 (Order 1701), § 16-321-050, filed 5/30/80.] Repealed by 03-08-018, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapters 15.13 and 34.05 RCW.

16-321-060 Land requirements. [Statutory Authority: Chapter 15.49 RCW. 80-06-104 (Order 1701), § 16-321-060, filed 5/30/80.] Repealed by 03-08-018, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapters 15.13 and 34.05 RCW.

16-321-070 Eligibility of seed stock. [Statutory Authority: Chapter 15.49 RCW. 80-06-104 (Order 1701), § 16-321-070, filed 5/30/80.] Repealed by 03-08-018, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapters 15.13 and 34.05 RCW.

16-321-080 Field standards. [Statutory Authority: Chapter 15.49 RCW. 80-06-104 (Order 1701), § 16-321-080, filed 5/30/80.] Repealed by 03-08-018, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapters 15.13 and 34.05 RCW.

16-321-090 Specific requirements. [Statutory Authority: Chapter 15.49 RCW. 80-06-104 (Order 1701), § 16-321-090, filed 5/30/80.] Repealed by 03-08-018, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapters 15.13 and 34.05 RCW.

16-321-100 Inspection. [Statutory Authority: Chapter 15.49 RCW. 80-06-104 (Order 1701), § 16-321-100, filed 5/30/80.] Repealed by 03-08-018, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapters 15.13 and 34.05 RCW.

16-321-110 Labeling. [Statutory Authority: Chapter 15.49 RCW. 80-06-104 (Order 1701), § 16-321-110, filed 5/30/80.] Repealed by 03-08-018, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapters 15.13 and 34.05 RCW.

16-321-120 Responsibility and obligations. [Statutory Authority: Chapter 15.49 RCW. 80-06-104 (Order 1701), § 16-321-120, filed 5/30/80.] Repealed by 03-08-018, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapters 15.13 and 34.05 RCW.

WAC 16-321-001 through 16-321-120 Repealed. See Disposition Table at beginning of this chapter.

Chapter 16-328 WAC

CERTIFICATION OF STRAWBERRY PLANTING STOCK

WAC

16-328-008 Definitions.
16-328-010 Repealed.
16-328-011 Strawberry plant certification fees.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-328-010 Strawberry plant certification fees. [Statutory Authority: Chapter 15.14 RCW. 01-11-032, § 16-328-010, filed 5/8/01, effective 6/8/01; 00-19-034, § 16-328-010, filed 9/12/00, effective 10/13/00; 92-15-114 (Order 3005), § 16-328-010, filed 7/21/92, effective 8/21/92; 87-13-016 (Order 1932), § 16-328-010, filed 6/9/87; Order 1216, § 16-328-010, filed 10/18/71; effective 11/18/71, Order 925, Regulation 1, filed 6/25/63; Order 625, Regulation 1, effective 4/29/52.] Repealed by 03-10-080, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.14 and 34.05 RCW.

WAC 16-328-008 Definitions. "Department" means the department of agriculture of the state of Washington.

"Director" means the director of the department of agriculture or a duly appointed representative.

"Fairly clean" means that the roots are not matted or caked with dirt.

"Fairly fresh" means that the roots and petioles are not excessively wilted or otherwise damaged.

"Fairly well trimmed runners and petioles" means that the length of each runner and petiole is three inches or less.

"Firm" means that the crowns are not soft or spongy, although they may yield to slight pressure.

Free from damage by:

(a) "Sunburn" means that the roots are not damaged by sunburn or scald, but slight discoloration may be present.

(b) "Mold" means that the plants are free from excessive mold or decay. Plants slightly affected by mold may be allowed.

(c) "Freezing injury" means that the roots are of a normal color, and the plant is only moderately affected by discolored roots which may affect its normal growth. Black roots caused by disease are not permitted.

(d) "Broken or split crowns, mechanical injury" means there is no breaking or severance of the crown from the root section, or splitting of the crown, or other mechanical injury that would affect the normal growth of the plant.

"Index" means to test for virus infection by means of inoculation from the plant to be tested to an indicator plant, or by any other method accepted by the department.

"Indicator plant" means any herbaceous or woody plant used to index or test for virus infection.

"Moist" means that the plants are reasonably turgid and not dried to a degree that would affect normal growth.

"Nuclear stock" means strawberry plants that have been indexed and found free of known viruses and virus-like diseases by United States Department of Agriculture personnel or other personnel acceptable to the department. Nuclear plants must be reindexed for virus and virus-like diseases at least every three years and maintained under conditions that would ensure freedom from infection.

"Off-type" means appearing by visual examination to be different from the species or variety listed on the application or exhibiting symptoms of a genetic or nontransmissible disorder.

"Similar varietal characteristics" means that the plants have the same general character of growth.

"Tolerance" means the maximum acceptable percentage of planting stock that is diseased, infected by plant pests, defective, or off-type based on visual inspection or laboratory testing by the director or other authorized person.

"Virus-like" means a graft-transmissible disorder resembling a virus disease, including, but not limited to, diseases caused by viroids and phytoplasmas.

[Statutory Authority: Chapters 15.14 and 34.05 RCW. 03-10-080, § 16-328-008, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapter 15.14 RCW. 00-19-034, § 16-328-008, filed 9/12/00, effective 10/13/00; 87-13-016 (Order 1932), § 16-328-008, filed 6/9/87; Order 1216, § 16-328-008, filed 10/18/71, effective 11/18/71.]

WAC 16-328-010 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-328-011 Strawberry plant certification fees. The strawberry plant certification fees are as follows:

	Effective July 1, 2003
Application fee	$140.70
Hourly inspection rate	$28.10

(1) Certification application fee. The applicant must furnish all information requested on the application for inspection, including, but not limited to, the crop, variety, class planted, date planted, source of seed or plants, acreage, field number, applicant's name and address, applicant's signature, and date of application. The applicant must allow the department to take plants or plant parts from any planting for inspection or testing purposes. A separate application is required for each cultivar and/or lot entered for certification. Applications for inspection must be filed with the Plant Services Program, P.O. Box 42560, Olympia, Washington, 98504-2560 by June 15 of each year and be accompanied by the application fee.

(2) Inspection fees. The department will conduct certification inspections at the hourly inspection rate plus mileage charged at a rate established by the state office of financial management. Testing fees will be charged at the rate established in chapter 16-470 WAC. Inspection and testing fees are payable upon completion of work. Billing may be arranged subject to department policies and processes.

(3) The department will remove any applicant from the certification program for failing to pay fees when due.

(4) The department will not accept applications from growers owing the department for previous fees.

[Statutory Authority: Chapters 15.13, 15.14, 17.24, and 34.05 RCW. 03-21-166, § 16-328-011, filed 10/22/03, effective 11/22/03. Statutory Authority: Chapters 15.14 and 34.05 RCW. 03-10-080, § 16-328-011, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapter 15.14 RCW. 01-11-032, § 16-328-011, filed 5/8/01, effective 6/8/01.]

Chapter 16-333 WAC

CERTIFICATION OF CANEBERRY PLANTING STOCK

WAC

16-333-010 Definitions.
16-333-040 Repealed.
16-333-041 Caneberry certification fees.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-333-040 Caneberry certification fees effective June 30, 2001. [Statutory Authority: Chapter 15.14 RCW. 01-11-030, § 16-333-040, filed 5/8/01, effective 6/8/01; 00-19-035, § 16-333-040, filed 9/12/00, effective 10/13/00; 92-15-114 (Order 3005), § 16-333-040, filed 7/21/92, effective 8/21/92; 87-13-016 (Order 1932), § 16-333-040, filed 6/9/87; 85-22-053 (Order 1876), § 16-333-040, filed 11/5/85.] Repealed by 03-10-081, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.14 and 34.05 RCW.

WAC 16-333-010 Definitions. "Caneberry" means any cultivated *Rubus* species.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of the department of agriculture or a duly appointed representative.

"Index" means to test for virus infection by means of inoculation from the plant to be tested to an indicator plant, or by any other method approved by the department.

"Indicator plant" means any herbaceous or woody plant used to index or test for virus infection.

"Nuclear stock" means caneberry plants that have been indexed and found free of known viruses and virus-like diseases by United States Department of Agriculture personnel or other personnel acceptable to the department. Nuclear plants must be reindexed for virus and virus-like diseases at least every three years and maintained under conditions that would ensure freedom from infection.

"Off-type" means appearing by visual examination to be different from the species or variety listed on the application or exhibiting symptoms of a genetic or nontransmissible disorder.

"Root cuttings" means sections of roots which have one or more bud.

"Succulent plants" means small, actively growing plants that are developing from root buds, not having passed through a dormant period.

"Tolerance" means the maximum acceptable percentage of planting stock that is diseased, infected by plant pests, defective, or off-type based on visual inspection or laboratory testing by the director or other authorized person.

"Virus-like" means a graft-transmissible disorder resembling a virus disease, including, but not limited to, diseases caused by viroids and phytoplasmas.

[Statutory Authority: Chapters 15.14 and 34.05 RCW. 03-10-081, § 16-333-010, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapter 15.14 RCW. 00-19-035, § 16-333-010, filed 9/12/00, effective 10/13/00; 85-22-053 (Order 1876), § 16-333-010, filed 11/5/85.]

WAC 16-333-040 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-333-041 Caneberry certification fees. The caneberry certification fees are as follows:

	Effective July 1, 2003
Application fee	$140.70
Hourly inspection rate	$28.10

(1) Certification application fee. The applicant must furnish all information requested on the application form furnished by the department, including, but not limited to, the crop, variety, class planted, date planted, source of seed or plants, acreage, field number, applicant's name and address, applicant's signature, and date of application. The applicant must allow the department to take plants or plant parts from any planting for inspection and testing purposes. A separate application is required for each cultivar and/or lot entered for certification. Applications must be filed with the Plant Services Program, P.O. Box 42560, Olympia, Washington 98504-2560 by May 15 each year and be accompanied by the application fee.

(2) Inspection fees. The department will conduct certification inspections at the hourly inspection rate plus mileage charged at a rate established by the state office of financial management. Testing fees will be charged at the rate established in chapter 16-470 WAC. Inspection and testing fees are payable upon completion of work. Billing may be arranged subject to department policies and processes.

(3) The department will remove any applicant from the certification program for failing to pay fees when due.

(4) The department will not accept applications from growers owing the department for previous fees.

[Statutory Authority: Chapters 15.13, 15.14, 17.24, and 34.05 RCW. 03-21-166, § 16-333-041, filed 10/22/03, effective 11/22/03. Statutory Authority: Chapters 15.14 and 34.05 RCW. 03-10-081, § 16-333-041, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapter 15.14 RCW. 01-11-030, § 16-333-041, filed 5/8/01, effective 6/8/01.]

Chapter 16-401 WAC
NURSERY INSPECTION FEES

WAC

16-401-021 Schedule of fees and charges—Facility inspection.
16-401-023 Schedule of fees and charges—Establishing hourly rates.
16-401-026 Repealed.
16-401-027 Schedule of fees and charges—Applicable rates and charges.
16-401-031 Repealed.
16-401-032 Schedule of fees and charges—Miscellaneous charges.
16-401-041 Nursery dealer license fees.
16-401-060 Annual assessment—Grapevines.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-401-026 Schedule of fees and charges—Applicable rates and charges—Effective June 30, 2001. [Statutory Authority: Chapters 15.13 and 15.14 RCW. 01-11-031, § 16-401-026, filed 5/8/01, effective 6/8/01; 99-12-034, § 16-401-026, filed 5/26/99, effective 6/26/99.] Repealed by 03-10-083, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW.

16-401-031 Schedule of fees and charges—Miscellaneous charges—Effective June 30, 2001. [Statutory Authority: Chapters 15.13 and 15.14 RCW. 01-11-031, § 16-401-031, filed 5/8/01, effective 6/8/01; 99-12-034, § 16-401-031, filed 5/26/99, effective 6/26/99.] Repealed by 03-10-083, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW.

WAC 16-401-021 Schedule of fees and charges—Facility inspection. (1) The department may conduct regulatory inspections of any plant material at any nursery facility licensed under chapter 15.13 RCW without additional charge except as provided in subsection (2) of this section. Subsequent to each inspection the department will issue a nursery inspection report to the licensed nursery.

(2) The department may charge a fee for repeated, subsequent inspections of licensed locations where plant material does not meet the requirements in chapter 15.13 RCW. However, the licensed location cannot be subjected to more than two paid inspections each license period. Fees are assessed on the basis of the time required for the inspection at the applicable hourly rate provided in this chapter.

[Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. 03-10-083, § 16-401-021, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.13 and 15.14 RCW. 01-11-031, § 16-401-021, filed 5/8/01, effective 6/8/01; 99-12-034, § 16-401-021, filed 5/26/99, effective 6/26/99.]

WAC 16-401-023 Schedule of fees and charges—Establishing hourly rates. (1) Requested services are provided at the applicable hourly rate. The nonbusiness hourly rate applies for service provided before 8:00 a.m. or after 5:00 p.m. during the workday and for all services provided on

Saturday, Sunday, or a holiday listed in subsection (2) of this section.

(2) Holidays mean New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day immediately following Thanksgiving Day, Veteran's Day, Christmas Day, President's Day, and Martin Luther King's Birthday.

(3) The hourly charge is assessed in one-half hour increments.

(4) Persons requesting service with less than twenty-four hours notice during nonbusiness hours may be subject to a charge of two additional hours at the nonbusiness hourly rate, if the department is required to pay call back to the employee(s) providing the requested service.

[Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. 03-10-083, § 16-401-023, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.13 and 15.14 RCW. 99-12-034, § 16-401-023, filed 5/26/99, effective 6/26/99. Statutory Authority: [Chapter 15.13 RCW]. 92-24-067 (Order 4016), § 16-401-023, filed 12/1/92, effective 1/1/93.]

WAC 16-401-026 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-401-027 Schedule of fees and charges—Applicable rates and charges. The following rates apply for requested inspection services:

(1) **Fee or Charge:**	**Effective**
	July 1, 2003
Hourly rate—business hours	$30.20
Hourly rate—nonbusiness hours	$38.60
Certificate issued at time if inspection	No charge
Certificate issued more than twenty-four hours after the inspection	$14.40
Additional certificates	$4.60
Fumigation lot or container fee	$12.05
Certificate of plant health for noncommercial movement	$6.00
Compliance agreement	$30.20
Inspection tags or stickers (lots of 250)	$6.00 per lot
Inspection tags or stickers (minimum 10)	$0.28 each

(2) Mileage at the established office of financial management rate (schedule A), per diem at actual cost, and travel time at the applicable hourly rate may be assessed for requested inspections that are not a part of a regular work schedule. Such charge may be prorated among applicants if more than one applicant is provided service during a workday or trip when mileage and/or per diem are applicable.

(3) Inspections for phytosanitary certification, including growing season field inspections, are provided at the applicable hourly rate provided in subsection (1) of this section except where an alternate certification inspection fee is provided in statute, in rule, or by a written agreement between the department and an industry entity, university, or public agency. When growing season field inspections for phytosanitary certification and regulatory inspections are performed simultaneously, the first two hours of inspection each calendar year for nurseries licensed under WAC 16-401-041 (1)(b) or (2)(a); and the first four hours of inspection per calendar year for nurseries licensed under WAC 16-401-041 (1)(c) or (2)(b), are without charge.

There is no additional charge for the first phytosanitary certificate issued at the time of the inspection.

(4) Inspection and certification of nonplant material or equipment for sanitation (freedom from soil or pests) by visual examination or through witnessing a prescribed treatment (steam cleaning, hydro-washing, etc.) is charged at the applicable hourly rate.

(5) Witnessing and certification of fumigation is charged at the applicable hourly rate, plus a per lot or container fee.

(6) The department may issue a certificate of plant health for noncommercial movement of plant materials between states by unlicensed persons, up to a maximum of five plants, and provided that the plants are brought to a plant services office for inspection.

Note: When two or more types of inspection, provided in this section, are performed simultaneously, only one hourly rate applies. One certificate for one service is issued at no charge.

[Statutory Authority: Chapters 15.13, 15.14, 17.24, and 34.05 RCW. 03-21-166, § 16-401-027, filed 10/22/03, effective 11/22/03. Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. 03-10-083, § 16-401-027, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.13 and 15.14 RCW. 01-11-031, § 16-401-027, filed 5/8/01, effective 6/8/01.]

WAC 16-401-031 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-401-032 Schedule of fees and charges—Miscellaneous charges. The following rates for miscellaneous charges on requested inspections shall apply.

(1) Postage, special handling services and other miscellaneous costs exceeding five dollars are charges at the actual cost.

(2) Other requested office services, not specifically provided for, are charged a fee based on the portion of an hour at the applicable hourly rate in this chapter.

[Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. 03-10-083, § 16-401-032, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.13 and 15.14 RCW. 01-11-031, § 16-401-032, filed 5/8/01, effective 6/8/01.]

WAC 16-401-041 Nursery dealer license fees. Annual license fees as established below, must accompany the application for nursery dealer license:

(1) Retail nursery dealer license fee:

(a) Gross business sales of horticultural plants and turf less than two thousand five hundred dollars $37.67

(b) Gross business sales of horticultural plants and turf between two thousand five hundred dollars and fifteen thousand dollars, the license fee is $80.72

(c) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more $161.45

(2) Wholesale nursery dealer license fee:

(a) Gross business sales of horticultural plants and turf less than fifteen thousand dollars $80.72

(b) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more $161.45

(3) As provided in RCW 15.13.285, a surcharge of twenty percent of the base rate, in addition to the fees established on all classes of licenses in subsections (1) and (2) of this section, is established.

(4) Permit fee for those types of sales and organizations exempted from licensing requirements by RCW 15.13.270.

Effective July 1, 2003 . . . . . .$6.00

[Statutory Authority: Chapters 15.13, 15.14, 17.24, and 34.05 RCW. 03-21-166, § 16-401-041, filed 10/22/03, effective 11/22/03. Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. 03-10-083, § 16-401-041, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.13 and 15.14 RCW. 01-11-031, § 16-401-041, filed 5/8/01, effective 6/8/01; 99-12-034, § 16-401-041, filed 5/26/99, effective 6/26/99.]

WAC 16-401-060 Annual assessment—Grapevines. As provided in RCW 15.13.310, an annual assessment of five percent on the gross sale price of the wholesale market value for all grapevine propagation material produced in Washington, and sold within the state or shipped from the state by any licensed nursery dealer, is established.

[Statutory Authority: Chapters 15.13 and 34.05 RCW. 03-09-112, § 16-401-060, filed 4/22/03, effective 5/23/03.]

Chapter 16-403 WAC

STANDARDS FOR APPLES MARKETED WITHIN THE STATE OF WASHINGTON

WAC

16-403-280 Adoption of United States standards as state standards.

WAC 16-403-280 Adoption of United States standards as state standards. In addition to the standards for apples prescribed in WAC 16-403-140 through 16-403-275, there are hereby adopted, as additional standards of the state of Washington for apples, the United States standards for grades of apples, effective December 19, 2002, adopted by the United States Department of Agriculture, as they apply to U.S. extra fancy, U.S. fancy, U.S. No. 1 and U.S. No. 1 hail, provided, the color requirements specified for U.S. No. 1 and U.S. No. 1 hail must be good shade of red color and the percentage of color required for U.S. No. 1 and U.S. No. 1 hail for Delicious shall be 25 percent good shade of red color and provided further, that all the United States grades as applied to Red Delicious, Delicious, Golden Delicious, Gala, and Jonagold varieties shall meet the firmness requirements of WAC 16-403-142.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 03-24-007, § 16-403-280, filed 11/20/03, effective 12/21/03; 02-12-011, § 16-403-280, filed 5/23/02, effective 8/1/02. Statutory Authority: Chapter 15.17 RCW. 89-14-031 (Order 2012), § 16-403-280, filed 6/28/89, effective 9/1/89; 88-14-128 (Order 1982), § 16-403-280, filed 7/6/88, effective 9/1/88; Order 1374, § 16-403-280, filed 7/26/74, effective 9/1/74.]

Chapter 16-406 WAC

STANDARDS FOR APRICOTS

WAC

16-406-001 Repealed.

16-406-025 Application of tolerances.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-406-001 Promulgation. [Order 1015, Promulgation, filed 4/29/66; Order 771, Promulgation, effective 4/28/58.] Repealed by 03-24-008, filed 11/20/03, effective 12/21/03. Statutory Authority: Chapters 15.17 and 34.05 RCW.

WAC 16-406-001 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-406-025 Application of tolerances. (1) The contents of individual samples are subject to the following limitations: Provided, That the averages for the entire lot are within the tolerances specified for this grade.

(2) For packages which contain more than ten pounds, and a tolerance of ten percent or more is provided, individual samples in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than ten pounds and a tolerance of less than ten percent is provided, individual samples in any lot shall have not more than double the tolerance specified: Provided, That not more than one apricot which is affected by decay or internal breakdown may be permitted in any sample.

(3) Washington No. 1 grade. For packages containing ten pounds or less: Not more than ten percent of the samples may have more than three times the tolerances specified, except that at least one defective apricot may be permitted in any sample: Provided, That not more than one apricot or more than six percent (whichever is the larger amount) may be affected by decay or internal breakdown.

(4) Washington No. 2 grade. For packages containing ten pounds or less: Not more than ten percent of the samples may contain more than three times the tolerances specified.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 03-24-008, § 16-406-025, filed 11/20/03, effective 12/21/03. Statutory Authority: Chapter 15.17 RCW. 99-17-003, § 16-406-025, filed 8/4/99, effective 9/4/99.]

Chapter 16-465 WAC

RULES AND REGULATIONS FOR THE OFFICIAL DETERMINATION OF BACTERIAL RING ROT IN SEED POTATOES

WAC

16-465-001 Repealed.

16-465-060 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-465-001 Promulgation. [Order 1138, § 16-465-001, filed 2/2/70.] Repealed by 03-05-079, filed 2/19/03, effective 3/22/03. Statutory Authority: Chapters 15.08, 17.24, 15.14, 15.17, and 34.05 RCW.

16-465-060 Effective date. [Order 1138, § 16-465-060, filed 2/2/70.] Repealed by 03-05-079, filed 2/19/03, effective 3/22/03. Statutory Authority: Chapters 15.08, 17.24, 15.14, 15.17, and 34.05 RCW.

WAC 16-465-001 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-465-060 Repealed. See Disposition Table at beginning of this chapter.

Chapter 16-470 WAC

QUARANTINE—AGRICULTURAL PESTS

WAC

16-470-905 Schedule of fees and charges—Establishing hourly rates.

16-470-911 Repealed.

16-470-912 Schedule of fees and charges—Applicable fees and charges.

16-470-916 Repealed.

16-470-917 Schedule of fees and charges—Fees for post entry inspection services.

16-470-921 Schedule of fees and charges—Miscellaneous fees.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-470-911 Schedule of fees and charges—Applicable fees and charges—Effective June 30, 2001. [Statutory Authority: Chapters 17.24 and 15.14 RCW. 01-11-033, § 16-470-911, filed 5/8/01, effective 6/8/01. Statutory Authority: Chapter 17.24 RCW. 99-22-076, § 16-470-911, filed 11/2/99, effective 12/3/99; 99-12-035, § 16-470-911, filed 5/26/99, effective 6/26/99.] Repealed by 03-10-082, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 17.24 and 34.05 RCW.

16-470-916 Schedule of fees and charges—Fees for post entry inspection services—Effective June 30, 2001. [Statutory Authority: Chapters 17.24 and 15.14 RCW. 01-11-033, § 16-470-916, filed 5/8/01, effective 6/8/01. Statutory Authority: Chapter 17.24 RCW. 99-12-035, § 16-470-916, filed 5/26/99, effective 6/26/99.] Repealed by 03-10-082, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 17.24 and 34.05 RCW.

WAC 16-470-905 Schedule of fees and charges—Establishing hourly rates. (1) Requested services are provided at the applicable hourly rate except as provided in subsection (5) of this section. The hourly rate for nonbusiness hours applies for service provided before 8:00 a.m. or after 5:00 p.m. during the workday and for all services provided on Saturday, Sunday, or on a holiday listed in subsection (2) of this section.

(2) Holidays shall mean New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day immediately following Thanksgiving Day, Veteran's Day, Christmas Day, President's Day, and Martin Luther King's Birthday.

(3) Charges are assessed in one-half hour increments.

(4) Persons requesting service with less than twenty-four hours notice during nonbusiness hours, may be subject to a charge of two additional hours at the nonbusiness hourly rate if the department is required to pay call back pay to the employee(s) providing the requested service.

(5) The department reserves the right to provide service by written agreement at a single, negotiated cost or at a negotiated rate for projects with one of the following characteristics:

(a) Projects requiring multiple periodic inspections and/or certificates; or

(b) Projects requiring field inspections of crops not regulated under chapter 15.13 or 15.14 RCW.

The rate charged shall not be less than the cost to the department of providing the services.

[Statutory Authority: Chapters 17.24 and 34.05 RCW. 03-10-082, § 16-470-905, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapter 17.24 RCW. 99-12-035, § 16-470-905, filed 5/26/99, effective 6/26/99; 92-07-023, § 16-470-905, filed 3/10/92, effective 4/10/92.]

WAC 16-470-911 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-470-912 Schedule of fees and charges—Applicable fees and charges. (1) Hourly rate.

	Effective July 1, 2003
Hourly rate - business hours	$30.20
Hourly rate - nonbusiness hours	$38.60

(2) Laboratory diagnostic services, except as provided in subsection (3) or (4) of this section, are charged at the applicable hourly rate plus materials.

(3) Plant pathology laboratory diagnostic fees are as follows:

Effective July 1, 2003

Identity Determination	1 sample	5 samples	10 samples	50 samples	100+ samples
virus (ELISA)	At cost	At cost	$10.00 ea	$5.00 ea	$2.90 ea
bacteria	40.05 ea	38.65 ea	36.25 ea	35.05 ea	35.05 ea
fungus	42.35 ea	36.25 ea	35.05 ea	33.85 ea	31.40 ea
nematode	31.40 ea	28.95 ea	26.55 ea	25.90 ea	24.15 ea

Note: To receive volume rates, samples must be submitted as a unit and identification requests must be for one specific virus, bacterium, fungus, or nematode. Samples tested for multiple pathogens will be considered as multiple samples unless all pathogens can be detected in a single test without additional inputs.

(4) The department reserves the right to provide service by written agreement at a single, negotiated cost or at a negotiated rate for projects with at least one of the following characteristics:

(a) Projects greater than one hundred samples;

(b) Projects requiring materials not readily available; or

(c) Projects requiring special handling or prolonged incubation periods.

The rate charged shall not be less than the cost to the department of performing the tests.

[Statutory Authority: Chapters 15.13, 15.14, 17.24, and 34.05 RCW. 03-21-166, § 16-470-912, filed 10/22/03, effective 11/22/03. Statutory Authority: Chapters 17.24 and 34.05 RCW. 03-10-082, § 16-470-912, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 17.24 and 15.14 RCW. 01-11-033, § 16-470-912, filed 5/8/01, effective 6/8/01.]

WAC 16-470-916 Repealed. See Disposition Table at beginning of this chapter.

WAC 16-470-917 Schedule of fees and charges—Fees for post entry inspection services. (1) Post entry site inspection and/or permit review and approval:

Effective July 1, 2003 $60.50

(2) Subsequent inspections of post entry plant materials are provided at the applicable hourly rate.

(3) Post entry inspection fees may be waived for state universities, United States Department of Agriculture researchers, and other public entities.

[Statutory Authority: Chapters 15.13, 15.14, 17.24, and 34.05 RCW. 03-21-166, § 16-470-917, filed 10/22/03, effective 11/22/03. Statutory Authority: Chapters 17.24 and 34.05 RCW. 03-10-082, § 16-470-917, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 17.24 and 15.14 RCW. 01-11-033, § 16-470-917, filed 5/8/01, effective 6/8/01.]

WAC 16-470-921 Schedule of fees and charges—Miscellaneous fees. (1) Mileage at the established office of financial management rate (schedule A), per diem at actual cost, and travel time at the applicable hourly rate may be assessed for requested inspections or post entry inspections that are not a part of a regular work schedule. Such charges may be prorated among applicants if more than one applicant is provided service during a workday or trip when per diem is applicable.

(2) Postage, special handling services and other miscellaneous costs exceeding five dollars will be charged back to the applicant at the actual cost.

(3) Certificates of inspection, phytosanitary certificates, and other official documents will be provided to the applicant subject to the charges and conditions established in chapter 16-401 WAC.

[Statutory Authority: Chapters 17.24 and 34.05 RCW. 03-10-082, § 16-470-921, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 17.24 and 15.14 RCW. 01-11-033, § 16-470-921, filed 5/8/01, effective 6/8/01. Statutory Authority: Chapter 17.24 RCW. 99-12-035, § 16-470-921, filed 5/26/99, effective 6/26/99.]

Chapter 16-603 WAC

AQUACULTURE IDENTIFICATION REQUIREMENTS

WAC

16-603-010 Aquaculture identification requirements.

WAC 16-603-010 Aquaculture identification requirements. (1) Any sale or movement of private sector cultured aquatic products made by an aquatic farmer, other than retail sale for personal use by the purchaser or rendering or unmarketable solid waste disposal, shall:

(a) Be accompanied by a shipping document showing:

(i) The aquatic farmer's name;

(ii) The aquatic farm mailing address;

(iii) The aquatic farm registration number required by RCW 75.58.040;

(iv) The date of transfer by the aquatic farmer;

(v) The quantity of each species; and

(b) Be labeled, showing the name of the aquatic farmer and the farmer's aquatic farm registration number on each container of cultured aquatic products.

(c) The shipping documents and labeling required under this section shall be retained and maintained by the purchaser while the private sector cultured aquatic products are under the purchaser's possession or control.

(2) The provisions of this section do not apply to shellfish if the shellfish comply with rules enacted under the labeling requirements for the Sanitary Control of Shellfish Act (WAC 246-282-080), or to live finfish or their reproductive tissues, if the finfish comply with rules enacted under the Washington department of fisheries transfer procedure set forth in chapter 220-77 WAC.

[Statutory Authority: Chapters 15.85 and 34.05 RCW. 03-13-005, § 16-603-010, filed 6/4/03, effective 7/5/03. Statutory Authority: RCW 15.85.040 and 15.85.060. 91-13-018 (Order 2086), § 16-603-010, filed 6/10/91, effective 1/1/92.]

Chapter 16-607 WAC

INSPECTION AND IDENTIFICATION OF LIVESTOCK

WAC

16-607-005 through 16-607-145 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-607-005 Definitions. [Statutory Authority: RCW 16.57.350, 16.58.030 and 16.65.020. 98-23-001, § 16-607-005, filed 11/4/98, effective 12/5/98. Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-005, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-010 The livestock identification advisory board. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-010, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-015 Official forms. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-015, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-020 Point of inspection—Cattle. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-020, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-025 Point of inspection—Horses. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-025, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-035 Out-of-state inspection procedure. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-035, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-045 Livestock inspection procedures—Certified feed lots, slaughterplants, beef commission assessment collecting points. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-045, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-050 Livestock inspection procedures—Private treaty sales. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-050, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-055 Review of complaints and procedures. [Statutory Authority: RCW 16.57.350, 16.58.030 and 16.65.020. 98-23-001, § 16-607-055, filed 11/4/98, effective 12/5/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-060 Certification of veterinarians to issue inspection certificates. [Statutory Authority: RCW 16.57.350, 16.58.030 and 16.65.020. 98-23-001, § 16-607-060, filed 11/4/98, effective 12/5/98. Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-060, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-065 Inspection fees. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-065, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-070 Renewal of registered brands. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-070, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective

1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-075 Recording fees. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-075, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-080 Identification by freeze branding. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-080, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-085 Use of production brands for dairy cattle. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-085, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-090 Use of production brands for beef cattle. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-090, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-095 Production record brands to consist of Arabic numbers only—Exception. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-095, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-100 Custom slaughter beef tag. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-100, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-105 Certificate of permit required for custom slaughtered cattle. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-105, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-110 Livestock identification on slaughtered cattle by owner. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-110, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-115 Certified feed lot licensing. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-115, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-120 Livestock inspection procedures—Public livestock markets. [Statutory Authority: RCW 16.57.350, 16.58.030 and 16.65.020. 98-23-001, § 16-607-120, filed 11/4/98, effective 12/5/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-125 Public livestock market livestock inspection facilities. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-125, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-130 Public livestock market scale installation regulations. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-130, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-135 Sale day. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-135, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-140 Special sale approval. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-140, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

16-607-145 Association membership. [Statutory Authority: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037 and 16.65.090. 98-19-037, § 16-607-145, filed 9/11/98, effective 10/12/98.] Repealed by 04-01-171, filed 12/23/03, effective 1/23/04. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW.

WAC 16-607-005 through 16-607-145 Repealed. See Disposition Table at beginning of this chapter.

Chapter 16-610 WAC
LIVESTOCK INSPECTION AND IDENTIFICATION

(Formerly chapter 16-607 WAC)

WAC

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WAC 16-610-005 What definitions are important to this chapter? "Association of livestock breeders" means any properly incorporated association whose membership is made up of livestock breeders.

"Brand" means a permanent firebrand, or any artificial mark, other than an individual identification symbol, that is approved by the director and is used with a brand or by itself.

"Livestock inspection" means examining livestock or livestock hides for brands or any other means of identifying livestock or livestock hides including the examination of any documents providing evidence of ownership.

"Certificate of permit" or **"transportation permit"** means a department form which, when completed by the livestock owner, or a person authorized to act as his/her agent, serves as a declaration of ownership. The form must not be used as a bill of sale for cattle. This form must accompany livestock:

(1) In transit;

(2) Consigned to a public livestock market, special sale, or livestock processing facility; or

(3) Upon entry into a certified feedlot.

"Collection point" means a livestock inspection point, designated by the Washington state beef commission, for the purpose of collecting beef commission assessment payments directly from cattle producers and remitting those assessments to the Washington state beef commission.

"Department" means the Washington state department of agriculture.

"Director" means the director of the department or the director's designated representative.

"Farmers cooperative association" means any cooperative association of livestock producers. "Farmers cooperative association" does not include livestock youth organizations such as 4-H, FFA, or other junior livestock groups.

"Individual identification symbol" means a department-approved permanent mark placed on the neck of a horse for the purpose of individually identifying and registering the horse.

"Inspection certificate" means a certificate issued by the director or a veterinarian certified by the director that documents animal ownership based on a visual inspection of the animal. An inspection certificate includes an individual identification certificate.

"Licensee" means any person licensed to operate a market under chapter 16.65 RCW.

"Livestock" means all cattle, horses, burros, mules, sheep, swine, and goats of any species, breed or age.

"Lot" means a group of livestock owned by one owner.

"Market" means public livestock market as defined in RCW 16.65.010(1).

"Person" means any natural person, individual, firm, partnership, corporation, company, society, or association, and every officer, agent or employee thereof. Depending upon the context in which it is used, "person" may have a singular or plural meaning.

"Production brand" means a number brand that is used only for production identification purposes.

"Purchase invoice" means the invoice issued by a public livestock market to the purchaser of livestock consigned to the market.

"Self-inspection" means an ownership verification inspection conducted solely by the buyer and seller of cattle, without the benefit of the director. Self-inspection is limited to fifteen head or less of cattle.

"Self-inspection certificate" means a department form that is used when cattle are inspected by their purchaser and seller. The purchaser and seller must sign the self-inspection certificate. The purpose of the self-inspection certificate is to document that self-inspection has occurred.

"Special sale" means a public sale conducted by a producer, youth organization, livestock breeders association, farmers cooperative association, etc., on a seasonal or occasional basis. A livestock market may also conduct a special sale on sale days not specifically assigned to it when its original application was filed with the director. "Special sale" does not mean a public sale by a group of individuals conducting private treaty sales of horses brought to a central location, provided that the:

(1) Funds are not handled by a third party; and

(2) Buyer meets the inspection requirements contained in RCW 16.57.260.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-005, filed 12/23/03, effective 1/23/04.]

WAC 16-610-010 What is the livestock identification advisory board? (1) The livestock identification advisory board is established in RCW 16.57.015 for the purpose of advising the director regarding:

(a) Livestock identification programs administered under chapter 16.57 RCW and these rules;

(b) Inspection fees; and

(c) Related licensing fees.

(2) The board is composed of six members appointed by the director representing beef producers, public livestock market operators, horse owners, dairy farmers, cattle feeders and meat processors.

(3) The board must elect a member to serve as board chair. The board chair, or the chair's designee, is responsible for organizing and conducting board meetings.

(4) The board must meet with the director at least once a year to offer its advice. Additional meetings may be held at the request of the director or a majority of the board's membership.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-010, filed 12/23/03, effective 1/23/04.]

WAC 16-610-011 Who can serve on the livestock identification advisory board? (1) Advisory board members must be:

(a) Residents of the state of Washington; and

(b) Actively engaged in the industry they represent.

(2) The director is an ex officio member of the advisory board.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-011, filed 12/23/03, effective 1/23/04.]

WAC 16-610-012 How long of term does a board member serve? (1) Advisory board members serve three-year terms. Terms begin on July 1 and end on June 30.

(2) Positions are numbered one through six as follows:

(a) Position one - beef producers;

(b) Position two - public livestock market operators;

(c) Position three - horse owners;

(d) Position four - dairy farmers;

(e) Position five - cattle feeders; and

(f) Position six - meat processors.

Note: When the board first began operating, positions one and four served a one-year term; positions two and five served a two-year term; and positions three and six served a three-year term. The purpose of this "staggered start" was to provide the board with a continuity of membership by staggering vacancies on the board.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-012, filed 12/23/03, effective 1/23/04.]

WAC 16-610-013 How are board vacancies filled? (1) To fill a vacancy resulting from an expired term, the director must solicit nominations from affected statewide industry groups. Nominations from industry groups must be submitted to the director before May 1 of the year in which the term expires.

(2) The director may fill, for the unexpired portion of a term, vacancies that occur before a term expires. When such vacancies occur, advisory board members and the presidents of affected statewide industry groups may submit names to the director for consideration.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-013, filed 12/23/03, effective 1/23/04.]

WAC 16-610-015 What specific livestock identification forms are required by the director? (1) Official livestock identification forms required by the director include the following:

(a) Certificate of permit (WSDA form #7020);

(b) Livestock inspection certificate; and

(c) Self-inspection certificate (WSDA form #7059 or #7065).

(2) The official forms must include:

(a) Owner's name and address;

(b) Breed;

(c) Sex;

(d) Brand or other methods of livestock identification; and

(e) Any other information, which the director considers necessary.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-015, filed 12/23/03, effective 1/23/04.]

WAC 16-610-016 How do I obtain a "certificate of permit" or a "self-inspection" certificate? (1) You may purchase these forms by contacting the department at: 360-902-1855.

(2)(a) The purchase price of a certificate of permit is one dollar for a book of twenty-five.

(b) The purchase price of a self-inspection certificate is equal to the sum of the number of head involved in the transaction multiplied by the current inspection fee and the number of head involved in the transaction multiplied by the beef promotion fee.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-016, filed 12/23/03, effective 1/23/04.]

WAC 16-610-018 What documents can I use to establish proof of ownership of my livestock? (1) Your proof of ownership for cattle and horses may be established by presenting one of the following documents:

(a) An official livestock inspection certificate issued by the director.

(b) A duplicate certificate or certified copy of an original inspection document issued by the director.

(c) A self-inspection certificate (cattle only) signed by both the seller and the buyer. Additional proof of ownership must be provided to the buyer for all livestock bearing brands not recorded to the seller.

(d) An official inspection certificate issued by another inspection state or province.

(e) Registration papers on purebred horses.

(f) Registration papers on purebred cattle provided the brand is not recorded in this state.

(g) Bill of sale (horses only).

(h) Health papers issued by a nonbrand state. Vaccination/test tags must be verifiable and match the document.

(i) A statement declaring that the animal was raised and not purchased.

(2) The director will only accept original, official duplicate certificates, or certified copies. The director will not accept carbon copies, faxed copies or photocopies. The name of the livestock owner must appear on the document that is submitted.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-018, filed 12/23/03, effective 1/23/04.]

WAC 16-610-020 When are cattle required to be inspected for brands or other proof of ownership? (1) All cattle must be inspected for brands or other proof of ownership:

(a) Before being moved out-of-state unless the provisions of WAC 16-610-035(2) apply.

(b) When offered for sale at any public livestock market or special sale approved by the director.

(c) Upon delivery to any cattle processing plant where the United States Department of Agriculture maintains a meat inspection program, unless the cattle:

(i) Originate from a certified feedlot; or

(ii) Are accompanied by an inspection certificate issued by the director or a veterinarian certified by the director or any other agency authorized in any other state or any Canadian province by law to issue such a certificate.

(2) All cattle, entering or reentering (but before commingling with other cattle) any certified feed lot licensed under chapter 16.58 RCW, must be inspected for brands or other

proof of ownership unless the cattle are accompanied by an inspection certificate issued by the director or a veterinarian certified by the director or any other agency authorized in any other state or any Canadian province by law to issue such a certificate.

(3) At any point of private sale, trade, gifting, barter or any other action that constitutes a change of ownership, subject to title passing, when an intended purchaser or private agent takes possession, except for individual:

(a) Private sales of unbranded female dairy breed cattle involving fifteen head or less; or

(b) Sales of unbranded dairy breed calves under thirty days of age provided the seller holds a Grade A dairy permit issued by the director.

(4) Exemptions from mandatory inspections do not exempt cattle sellers from paying assessments they owe the Washington state beef commission under chapter 16.67 RCW.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-020, filed 12/23/03, effective 1/23/04.]

WAC 16-610-025 When are horses required to be inspected for brands or other proof of ownership? All horses must be inspected for brands or other proof of ownership:

(1) Before being moved out-of-state unless the provisions of WAC 16-610-035 apply.

(2) When offered for sale at any public livestock market or special sale approved by the director.

(3) When offered for sale at any special open consignment horse sale as defined in RCW 16.65.010.

(4) When offered for sale at any special sale where horses of more than one owner are offered for sale on an occasional and seasonal basis by public auction.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-025, filed 12/23/03, effective 1/23/04.]

WAC 16-610-035 What procedures apply to inspections of cattle and horses that are moving out-of-state? (1) Except as provided in subsection (2) of this section, all cattle and horses must be inspected by the director or a certified veterinarian for brands or other proof of ownership before being moved out-of-state.

(2)(a) Cattle and horses may be moved out-of-state without inspection when they are destined for a public livestock market or a livestock processing plant in another state where brand inspection is performed by the director or an agent according to an agreement with the other state.

(b) Cattle and horses moving out-of-state to public livestock markets or livestock processing plants described in subsection (2)(a) of this section must be accompanied by a certificate of permit showing that the livestock are destined for and are being transported directly to the designated out-of-state inspection point. The certificate of permit is not valid for transportation to any point other than the designated inspection point.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-035, filed 12/23/03, effective 1/23/04.]

WAC 16-610-045 What procedures apply to inspection of cattle at certified feedlots and slaughter plants? Inspections of cattle required under WAC 16-610-020 (1)(c) or 16-610-020(2) and at any other beef commission assessment collection point must be conducted by the director.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-045, filed 12/23/03, effective 1/23/04.]

WAC 16-610-050 What cattle inspection procedures apply to private transactions? (1) Inspections of cattle required under WAC 16-610-020(3) may be conducted by:

(a) The director; or

(b) Veterinarians certified by the director; or

(c) The buyer and seller.

(2) Inspections of cattle required under WAC 16-610-020(3) that are conducted by the buyer and seller must be documented using a self-inspection certificate. Self-inspection is limited to transactions involving fifteen head or less of cattle.

(a) Self-inspection certificates must be completed and signed by the buyer and seller. The original completed copy of the certificate must be given to the buyer and must accompany the cattle. The seller must also retain a copy of the completed certificate.

(b) The buyer must be given proof of ownership for all cattle bearing brands not recorded to the seller.

(c) The cost of self-inspection certificates includes the current inspection fee and the current assessment for the National Beef Promotion and Research Act.

(d) The director will remit all assessments collected from self-inspections to the Washington state beef commission.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-050, filed 12/23/03, effective 1/23/04.]

WAC 16-610-055 Does the director review ownership disputes? The director may review or investigate any verified complaint involving disputed ownership that is filed with the director.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-055, filed 12/23/03, effective 1/23/04.]

WAC 16-610-060 Does the director allow veterinarians to issue inspection certificates? (1) The director may certify veterinarians, who are licensed and accredited in Washington state and who comply with the requirements of this section, to issue inspection certificates for livestock.

(2) Veterinarians licensed and accredited in Washington state that wish to issue inspection certificates for livestock must apply for certification on the department's application form (WSDA form #7028). The application must include the following:

(a) The full name and principal business address of the individual applying for certification;

(b) The applicant's Washington state veterinary license number;

(c) The geographic area in which the applicant will issue inspection certificates for livestock;

(d) A statement describing the applicant's experience with large animals, especially cattle and horses;

(e) A brief statement indicating if the applicant is requesting certification to issue inspection certificates for cattle, horses or both;

(f) The signature of the applicant; and

(g) Any other reasonable information the director needs to achieve the purpose of this chapter.

(3) All applications must be accompanied by a check or money order for the amount of the certification fee.

(4) The certification fee is thirty-five dollars per applicant.

(5) Certifications expire on the third December 31st following the date of issuance. For example, if your certificate was issued on October 14, 2003, it would expire on December 31, 2005.

(6) All veterinarians applying for certification must complete department-provided training. The department will provide, to each person certified, a copy of the most current brand book and any supplements issued to date. Training will include, but not be limited to, the:

(a) Reading of printed brands;

(b) Reading of brands or other marks on live animals;

(c) Completion of official documents; and

(d) Review of satisfactory ownership documents.

(7) The director will maintain a list of veterinarians certified to perform livestock inspection. Interested parties may request a copy of the list from the director by calling 360-902-1855 or by accessing the department's website.

(8) Inspections by certified veterinarians are conducted upon request and provided at the discretion of the veterinarian.

(9) Certified veterinarians must submit all required inspection fees to the director with copies of each certificate issued.

Note: Certified veterinarians may charge an additional fee that is separate from the fees collected under RCW 16.57.220 and WAC 16-610-065.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-060, filed 12/23/03, effective 1/23/04.]

WAC 16-610-062 Can the director withdraw or deny a veterinarian's certification to issue inspection certificates? The director may withdraw or deny a veterinarian's certification to issue inspection certificates if the veterinarian knowingly:

(1) Makes false or inaccurate statements on an application regarding their qualifications.

(2) Makes or acquiesces in false or inaccurate statements on livestock inspection certificates regarding:

(a) The date or location of the inspection;

(b) The marks or brands on the livestock inspected;

(c) The owner's name; or

(d) Any other statement material to the livestock inspected.

(3) Fails to properly verify the ownership status of the animal before issuing an inspection certificate.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-062, filed 12/23/03, effective 1/23/04.]

WAC 16-610-065 What livestock identification fees are charged by the director? All livestock identification inspection fees charged by the director are specified in statute but are reproduced in this section for your convenience:

RCW Chapter:	Fees:
(1) Chapter 16.57 RCW Identification of livestock	
Base livestock inspection fee for cattle	(a) A livestock inspection fee for cattle of $0.85 per head or $15.00 per hour and the current mileage rate set by the office of financial management (OFM), whichever is greater.
Base livestock inspection fee for horses	(b) A livestock inspection fee of horses is $3.50 per head or $15.00 per hour and the current OFM mileage rate, whichever is greater.
Group livestock inspection fee for horses	(c) A livestock inspection fee for groups of thirty or more horses is $2.00 per head or $15.00 per hour and the current OFM mileage rate, whichever is greater, provided:
	(i) The horses are owned by one individual; and
	(ii) The inspection is performed on one date and at one location; and
	(iii) Only one certificate is issued.
Minimum certificate fee	(d) A minimum certificate fee of $5.00 for each certificate issued.
Annual livestock inspection fee	(e) A livestock inspection fee for cattle and horses of $20.00 per head for an individual identification certificate (annual) or $15.00 per hour and the current OFM mileage rate, whichever is greater.
Annual group livestock inspection fee	(f) A livestock inspection fee for an individual identification certificate (annual) for groups of thirty or more horses or cattle of $5.00 per head or $15.00 per hour and the current OFM mileage rate, whichever is greater, provided:
	(i) The horses or cattle are owned by one individual;
	(ii) The inspection is performed on one date and at one location; and
	(iii) Only one certificate is issued.

RCW Chapter:	Fees:
Lifetime livestock inspection fee	(g) A livestock inspection fee for horses and cattle of $60.00 per head for an individual identification certificate (lifetime) or $15.00 per hour and the current OFM mileage rate, whichever is greater.
(2) Chapter 16.58 RCW Identification of cattle through licensing of certified feedlots	A livestock inspection fee for cattle of $0.85 per head or $15.00 per hour and the current OFM mileage rate, whichever is greater.
(3) Chapter 16.65 RCW Public livestock markets	(a) A livestock inspection fee for cattle of $0.85 per head.
	(b) A livestock inspection fee for horses of $3.50 per head.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-065, filed 12/23/03, effective 1/23/04.]

WAC 16-610-070 What is the schedule for renewing recorded brands? Except as noted below, brand recordings are renewed for a period of four years. Owners of recorded brands, upon notification by the director, must file for renewal by December 31st of the year in which a recording expires.

Note: To establish a staggered renewal schedule the director may renew, for a two-year period, approximately half of the brand recordings that expire on December 31st. When these recordings expire at the end of the two-year period, they will then be renewed for a four-year period.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-070, filed 12/23/03, effective 1/23/04.]

WAC 16-610-080 Does the director allow livestock identification by freeze branding? Freeze branding techniques to identify livestock may be used to comply with the requirements of chapters 16.57 RCW and 16-610 WAC, provided the brand is recorded with the director.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-080, filed 12/23/03, effective 1/23/04.]

WAC 16-610-085 Can production brands be used to identify dairy cattle? Owners may use any digit or combination of digits as a production brand to identify their dairy cattle as long as the brand is located either on the neck or between the hock and the stifle of a hind leg.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-085, filed 12/23/03, effective 1/23/04.]

WAC 16-610-090 Can production brands be used to identify beef cattle? (1) Owners may use a production brand to identify beef cattle but only when the cattle also bear a brand, which is currently recorded, to the owner of the animal.

(2) On beef cattle, production brands must be located high on either the left or right shoulder, or both.

(3) Any digit or combination of digits may be used for a beef cattle production brand provided they do not conflict with currently recorded ownership brands.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-090, filed 12/23/03, effective 1/23/04.]

WAC 16-610-092 What style of numbers must be used for production brands? Only Arabic numbers can be used for production brands.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-092, filed 12/23/03, effective 1/23/04.]

WAC 16-610-094 Are production brands recorded with the director? (1) Before a production brand can be legally used in Washington state, it must be recorded with the director:

(a) According to the provisions of chapter 16.57 RCW; and

(b) In the same manner as an ownership brand.

(2) Forms to record a brand may be obtained from the director.

(3) The director will not charge a fee to record a production brand if the person recording the brand has already paid to record an ownership brand.

(4) Production brands are not:

(a) Recognized for ownership purposes;

(b) Recorded for ownership purposes; or

(c) Accepted for livestock inspection purposes.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-094, filed 12/23/03, effective 1/23/04.]

WAC 16-610-100 What are custom slaughter beef tags? (1) Any person licensed as a custom slaughterer must complete and attach a custom slaughter beef tag to each of the four quarters of all slaughtered cattle they handle. These tags must remain attached to the quarters until the quarters are cut and wrapped.

(2) The purpose of attaching the beef tag to the carcass is to identify the owner of the carcass while the carcass is being processed.

(3) Only the department may provide custom slaughter beef tags to custom slaughters. The fee for each set of four custom slaughter beef tags is one dollar and fifty cents.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-100, filed 12/23/03, effective 1/23/04.]

WAC 16-610-105 Are certificates of permit required for custom slaughtered cattle? Any person presenting cattle for slaughter to a licensed custom slaughterer must give the custom slaughterer a completed certificate of permit. This form (WSDA form #7020) documents the ownership of the animal at the time of slaughter.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-105, filed 12/23/03, effective 1/23/04.]

WAC 16-610-110 Can a custom meat facility accept carcasses of cattle slaughtered by the cattle owner? (1) Custom meat facilities may accept carcasses of cattle slaughtered by the cattle owner only if a certificate of permit, signed by the owner, accompanies the carcass.

(2) Without a certificate of permit signed by the owner, custom meat facilities can only accept carcasses from mobile or fixed location custom farm slaughterers or officially inspected slaughter plants.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-110, filed 12/23/03, effective 1/23/04.]

WAC 16-610-115 What requirements must be met before a license to operate a certified feedlot is granted? (1)(a) Before issuing an initial certified feedlot license, the director will conduct an inspection of all cattle in the feedlot inventory and their corresponding ownership documents.

(b) The fee for this inspection is set in RCW 16.57.220.

(2) If a certified feedlot license is not renewed, all cattle in the feedlot inventory are subject to the inspection requirements for noncertified feedlots.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-115, filed 12/23/03, effective 1/23/04.]

WAC 16-610-120 Who is responsible for identifying cattle and horses consigned to a public livestock market? (1) The licensee is responsible for identifying each head of cattle and horses consigned to a public livestock market.

(2) Identification may occur either before or at the time the animals are inspected.

(3) Acceptable methods of identification are:

(a) Placing a numbered tag on each animal; or

(b) Using some other director-approved method of identification to identify each animal.

(4) The licensee is responsible for moving, confining, and/or restraining livestock as needed to insure that a complete inspection can be performed.

(5) The director may exempt certain lots of one-brand or no-brand cattle from the individual identification requirements of this section provided the integrity of the inspection process can be maintained.

(6) It is the responsibility of the licensee or consignor to present livestock to the director so an inspection can be performed.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-120, filed 12/23/03, effective 1/23/04.]

WAC 16-610-122 What requirements must be satisfied before cattle and horses consigned or purchased at a public livestock market can be removed from that facility? (1) Before allowing the removal of any cattle or horses from any public livestock market, a licensee or their agent or employee must:

(a) Obtain a livestock inspection clearance for the cattle or horses being removed; and

(b) Issue a release to the person wishing to remove the cattle or horses.

(2) If stamped by the director, the purchase invoice, with specific livestock identification information drawn and written on it can serve as an inspection clearance document provided the animals listed are unbranded and will not be shipped to an out-of-state destination. It is the director's responsibility to:

(a) Add the livestock identification information to the purchase invoices; and

(b) Ensure its accuracy.

(3) At the request of the purchaser, a livestock inspection certificate will be issued in lieu of a stamped purchase invoice at no additional cost.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-122, filed 12/23/03, effective 1/23/04.]

WAC 16-610-124 What if cattle and horses consigned to a public livestock market are not sold? Cattle and horses that have been offered for sale, but did not sell, will not be assessed an additional inspection fee upon reconsignment provided:

(1) The reconsignment occurs within eight days of the original sale;

(2) The animals are reconsigned to the original sale facility;

(3) The animals have not been removed from the original sale facility before reconsignment;

(4) The animals have not been commingled with other animals; and

(5) No animals have been added or removed from the group.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-124, filed 12/23/03, effective 1/23/04.]

WAC 16-610-125 What requirements apply to public livestock market livestock inspection facilities? The director must approve all livestock inspection facilities at public livestock markets. For the director's approval, inspection facilities must:

(1) Include a chute that is constructed according to the following specifications:

(a) Constructed with a solid base on each side of sufficient strength to contain cattle and horses. The base must be at least twenty-four inches in height, but no more than thirty-six inches in height.

(b) Above the base on each side, the chute must have wire cables extended along its entire length. The cables must be separated by six-inch intervals and must extend vertically to a height of at least six feet.

(c) For support and to ensure that the cables are maintained in a tight condition, the cables must be attached to a vertical post every sixteen feet that is alternated with a pipe or stay every eight feet.

(d) The chute must be well lit by shop, spot, or floodlights. These lights must be located on both sides of the chute at a height of five feet above the highest cable. Beginning at the head of the chute, this lighting must extend along three-fourths of the length of the chute.

(2) Electrical outlets must be available at all chutes so clippers can be conveniently used.

(3) Inspection areas must be well covered by adequate roofing and kept free of any water leaks or water build-up of any kind.

(4) Inspection areas must incorporate a work area for livestock inspectors on each side of the chute. The work area must:

(a) Provide an inspector with at least thirty inches of workspace along the entire length of the chute; and

(b) Be enclosed by fencing or some other permanent-type structure that protects inspectors while cattle and horses are unloaded and moved along the chute.

(5) Inspection areas must include an office. The office must:

(a) Be constructed according to dimensions of at least eight feet by ten feet;

(b) Contain adequate heating; and

(c) Be equipped with a counter built at a standing work level height and with a width of approximately eighteen inches.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-125, filed 12/23/03, effective 1/23/04.]

WAC 16-610-130 What regulations apply to the installation of scales in a public livestock market? (1) To ensure that scales can be tested with relative ease and convenience:

(a) All scales that are inaccessible to a test truck must be accessible by a convenient, unobstructed, hard-surfaced approach ramp or walkway that connects with the scale deck at the scale deck level; and

(b) All doors and passageways leading to the scale must have a minimum width of six feet.

(2) Preferably, scale decks should be constructed using reinforced concrete with "Z" bar coping. If cleats are used that are more than three-fourths inch in thickness, they must be:

(a) Hinged; or

(b) Readily removable; or

(c) Accompanied by a satisfactory covering to allow for proper testing.

(3) All stock racks must be securely fastened to the scale deck. There must be a minimum clearance of three inches between the rack and the surrounding dead construction.

(4) Adequate space and visibility must be provided around scales so that interested parties may observe the weighing operation.

(5) All dial scales used by the licensee must be:

(a) Readily visible to all interested parties; and

(b) Equipped with a mechanical weight recorder.

(6) All beam scales used by the licensee must be equipped with a balance indicator, a weigh beam and a mechanical weight recorder. The balance indicator, weigh beam and mechanical weight recorder must be readily visible to all interested parties.

(7)(a) The pit and foundation beneath the scale deck must be constructed in a singular, uniform and massively solid way.

(b) Coping iron is required on all corners adjacent to the deck.

(c) The pit must be six feet in depth, dry and readily accessible for inspection. When conditions are sufficiently adverse, the director may allow exceptions to this six-foot depth requirement. However, a minimum of two feet clearance between the lowest scale lever and the pit floor must always be provided.

(d) To insure safe and accurate inspections, sufficient electrical lighting must be provided in the inspection facility, especially around the chute and scales and in the pit beneath the scale deck.

(8) The recording element must be adequately housed for protection against wind and weather.

(9) Scales are not required at markets only licensed to handle horses and mules unless these animals are sold by weight. When these animals are sold by weight, the scale requirements of this section apply.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-130, filed 12/23/03, effective 1/23/04.]

WAC 16-610-135 What if a public livestock market fails to conduct a sale on an allocated sale day? (1) If a licensed operator of a public livestock market fails, more than six times in a twelve-month period, to conduct a sale on a sale day that has been allocated to the licensee by the director, the allocation of that sale day is subject to change or revocation by the director.

(2) Any change or revocation of an allocated sale day must be considered in an administrative hearing conducted according to the provisions of chapter 34.05 RCW.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-135, filed 12/23/03, effective 1/23/04.]

WAC 16-610-140 Does the director approve special sales? (1) The director must approve all special sales and approval is at the discretion of the director.

(2) Application for approval of a special sale must be made at least fifteen days in advance of the proposed sale. The application must contain the following:

(a) Name, address, and contact number of the applicant;

(b) Type of applicant: Producer, livestock market or association;

(c) Name of sale and/or event;

(d) Type and number of livestock expected to be sold;

(e) Date, time, and location of the sale;

(f) Name and the contact number of the veterinarian who will be providing animal health services; and

(g) Signature of the applicant.

Note: Use WSDA form #7046 (Application: Special livestock sale permit) to apply for the director's approval of a special sale.

(3) The director charges a special sale application fee, which is specified in RCW 16.65.420. Special sale applications will not be processed until the application fee is paid.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-140, filed 12/23/03, effective 1/23/04.]

WAC 16-610-145 What is the relationship between membership in an association and a special sale? To assure that any special sale proposed by a farmers cooperative association or association of livestock breeders is limited to the sale of their own livestock, the association may be required to provide verification to the director that any person offering livestock for sale at the special sale was a member of the association at the time of the filing of any consignment application, contract or commitment.

[Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. 04-01-171, § 16-610-145, filed 12/23/03, effective 1/23/04.]

Chapter 16-662 WAC

WEIGHTS AND MEASURES—NATIONAL HANDBOOKS

WAC

16-662-100 Purpose.
16-662-105 Adoption—Weighing and measuring equipment requirements—Package checking—Packaging and labeling—Method of sale—Price verification.
16-662-110 Modifications to NIST Handbook 44.
16-662-115 Modifications to NIST Handbook 130.

WAC 16-662-100 Purpose. The purpose of this rule is to establish requirements for the state of Washington that are reasonably consistent with uniform state rules that have been adopted by the National Conference on Weights and Measures and that are in effect in other states. This chapter applies specifically to subject areas for:

(1) Uniform specifications, tolerances and other technical requirements for weighing and measuring devices addressed in the *National Institute of Standards and Technology Handbook 44*;

(2) Uniform procedures for checking the net contents of packaged goods addressed in the *National Institute of Standards and Technology, Handbook 133*;

(3) Uniform packaging and labeling requirements;

(4) Uniform method of sale of commodities requirements; and

(5) Uniform examination procedures for price verification addressed in the *National Institute of Standards and Technology Handbook 130*. The publications cited in this chapter, Handbook 44, Handbook 130 and Handbook 133, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The handbooks are also available on the National Institute of Standards and Technology website. For information regarding the contents of these publications, contact weights and measures in the Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560, or e-mail wts&measures@agr.wa.gov.

[Statutory Authority: Chapters 19.94 and 34.05 RCW. 03-08-017, § 16-662-100, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapter 19.94 RCW. 97-12-075, § 16-662-100, filed 6/4/97, effective 7/5/97.]

WAC 16-662-105 Adoption—Weighing and measuring equipment requirements—Package checking—Packaging and labeling—Method of sale—Price verification. (1) The specifications, tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment shall be those contained in the 2003 Edition of the National Institute of Standards and Technology (NIST) Handbook 44, published by the U.S. Department of Commerce, entitled the *National Institute of Standards and Technology Handbook 44 - Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices*.

(2) The procedures for checking the accuracy of the net contents of packaged goods shall be those contained in the Fourth Edition of National Institute of Standards and Technology (NIST) Handbook 133 published by the United States Department of Commerce, entitled *NIST Handbook 133 - Fourth Edition - Checking the Net Contents of Packaged Goods - Fourth Edition, 2003 Edition*.

(3) The requirements for packaging and labeling, method of sale of commodities, and the examination procedures for price verification shall be those contained in the 2003 Edition of National Institute of Standards and Technology Handbook 130, entitled the *NIST Handbook 130 - Uniform Laws And Regulations in the areas of legal metrology and motor fuel quality*, specifically:

(a) Weights and measures requirements for all food and nonfood commodities in package form shall be the *Uniform Packaging and Labeling Regulation* requirements as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, 2003 Edition.

(b) Weights and measures requirements for the method of sale of food and nonfood commodities shall be those found in the *Uniform Regulation for the Method of Sale of Commodities* as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, 2003 Edition.

(c) Weights and measures requirements for price verification shall be the *Examination Procedures for Price Verification* as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, 2003 Edition.

[Statutory Authority: Chapters 19.94 and 34.05 RCW. 03-08-017, § 16-662-105, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapter 19.94 RCW. 02-12-029, § 16-662-105, filed 5/29/02, effective 6/29/02. Statutory Authority: RCW 19.94.195. 01-16-005, § 16-662-105, filed 7/19/01, effective 8/19/01; 00-14-005, § 16-662-105, filed 6/23/00, effective 7/24/00; 99-07-056, § 16-662-105, filed 3/16/99, effective 4/16/99; 98-13-072, § 16-662-105, filed 6/15/98, effective 7/16/98. Statutory Authority: Chapter 19.94 RCW. 97-12-075, § 16-662-105, filed 6/4/97, effective 7/5/97.]

WAC 16-662-110 Modifications to NIST Handbook 44. The following modifications are made to Handbook 44, identified in WAC 16-662-105:

(1) General Code: Section G-UR. User Requirements. In the last sentence of subsection G-UR.4.1. "Maintenance of Equipment," change "device user" to "device owner or operator."

(2) Scale Code: Section UR.3. Use Requirements. At the end of subsection UR.3.7.(a) add "and homeowner refuse."

[Statutory Authority: Chapters 19.94 and 34.05 RCW. 03-08-017, § 16-662-110, filed 3/25/03, effective 4/25/03. Statutory Authority: RCW 19.94.195. 01-16-005, § 16-662-110, filed 7/19/01, effective 8/19/01; 99-07-056, § 16-662-110, filed 3/16/99, effective 4/16/99. Statutory Authority: Chapter 19.94 RCW. 97-12-075, § 16-662-110, filed 6/4/97, effective 7/5/97.]

WAC 16-662-115 Modifications to NIST Handbook 130. The following modifications are made to the *Uniform Regulation for the Method of Sale of Commodities* requirements published in NIST Handbook 130, identified in WAC 16-662-105 (3)(b):

(1) Section 2.20. Gasoline-Oxygenate Blends. Delete Section 2.20. The requirements for this subject are addressed in RCW 19.94.505 and chapter 16-657 WAC.

(2) Section 2.23. Animal Bedding. Add a new subsection 2.23.1. Sawdust, Barkdust, Decorative Wood Particles, and Similar Products. As used in this subsection, "unit" means a standard volume equal to 200 cubic feet. Quantity representations for sawdust, barkdust, decorative wood particles, and similar loose bulk materials when advertised,

offered for sale, or sold within the state of Washington shall be in terms of cubic measure or units and fractions thereof.

[Statutory Authority: Chapters 19.94 and 34.05 RCW. 03-08-017, § 16-662-115, filed 3/25/03, effective 4/25/03. Statutory Authority: RCW 19.94.195. 98-13-072, § 16-662-115, filed 6/15/98, effective 7/16/98. Statutory Authority: Chapter 19.94 RCW. 97-12-075, § 16-662-115, filed 6/4/97, effective 7/5/97.]

Chapter 16-750 WAC

STATE NOXIOUS WEED LIST AND SCHEDULE OF MONETARY PENALTIES

WAC

16-750-005 State noxious weed list—Class A noxious weeds.
16-750-011 State noxious weed list—Class B noxious weeds.
16-750-015 State noxious weed list—Class C noxious weeds.

WAC 16-750-005 State noxious weed list—Class A noxious weeds.

Common Name	Scientific Name
bean-caper, Syrian	*Zygophyllum fabago*
blueweed, Texas	*Helianthus ciliaris*
broom, Spanish	*Spartium junceum*
buffalobur	*Solanum rostratum*
clary, meadow	*Salvia pratensis*
cordgrass, dense flower	*Spartina densiflora*
cordgrass, salt meadow	*Spartina patens*
crupina, common	*Crupina vulgaris*
flax, spurge	*Thymelaea passerina*
four o'clock, wild	*Mirabilis nyctaginea*
goatsrue	*Galega officinalis*
hawkweed, yellow devil	*Hieracium floribundum*
hogweed, giant	*Heracleum mantegazzianum*
hydrilla	*Hydrilla verticillata*
johnsongrass	*Sorghum halepense*
knapweed, bighead	*Centaurea macrocephala*
knapweed, Vochin	*Centaurea nigrescens*
kudzu	*Pueraria montana var. lobata*
lawnweed	*Soliva sessilis*
mustard, garlic	*Alliaria petiolata*
nightshade, silverleaf	*Solanum elaeagnifolium*
sage, clary	*Salvia sclarea*
sage, Mediterranean	*Salvia aethiopis*
spurge, eggleaf	*Euphorbia oblongata*
starthistle, purple	*Centaurea calcitrapa*
thistle, Italian	*Carduus pycnocephalus*
thistle, milk	*Silybum marianum*
thistle, slenderflower	*Carduus tenuiflorus*
velvetleaf	*Abutilon theophrasti*
woad, dyers	*Isatis tinctoria*

[Statutory Authority: Chapters 17.10 and 34.05 RCW. 03-04-001, § 16-750-005, filed 1/22/03, effective 2/22/03. Statutory Authority: Chapter 17.10 RCW. 99-24-029, § 16-750-005, filed 11/23/99, effective 1/3/00; 98-24-026, § 16-750-005, filed 11/23/98, effective 1/2/99; 97-24-051, § 16-750-005, filed 11/26/97, effective 1/2/98. Statutory Authority: RCW 17.10.080.96-06-030, § 16-750-005, filed 2/29/96, effective 3/31/96.Statutory Authority: Chapter 17.10 RCW. 93-01-004, § 16-750-005, filed 12/2/92, effective 1/2/93; 91-24-072, § 16-750-005, filed 12/2/91, effective 1/2/92; 91-01-016, § 16-750-005, filed 12/7/90, effective 1/7/91; 90-01-004, § 16-750-005, filed 12/7/89, effective 1/7/90; 88-24-002 (Order 26, Resolution No. 26), § 16-750-005, filed 11/29/88.Statutory Authority: RCW 17.10.080.88-07-016 (Order 22, Resolution No. 22), § 16-750-005, filed 3/7/88.]

WAC 16-750-011 State noxious weed list—Class B noxious weeds.

Name		Will be a "Class B designate" in all lands lying within:
(1) alyssum, hoary *Bertero aincang*	(a) (b) (c) (d)	regions 1, 2, 5, 6, 8, 9, 10 region 3, except Okanogan County Okanogan County, of region 3, except Ranges 29 through 31 East of Townships 37 through 40 North Adams and Whitman counties of region 7.
(2) blackgrass *Alopecurus myosuroides*	(a) (b) (c)	regions 1, 2, 3, 5, 6, 8, 9, 10 Ferry, Stevens, Pend Oreille counties of region 4 Adams County of region 7.
(3) blueweed *Echium vulgare*	(a) (b)	regions 1, 2, 3, 4, 5, 6, 8, 9, 10 region 7 except for an area starting at the Stevens County line on SR 291 south to the SR 291 bridge over the Little Spokane River, thence upstream along the Little Spokane River to the first Rutter Parkway Bridge; thence south along the Rutter Parkway to the intersection of Rutter Parkway and Indian Trail Road; thence southerly along Indian Trail Road to a point three miles south (on section line between sections 22 and 27, T-26N, R-42E); thence due west to a point intersecting the line between Ranges 41 and 42; thence north along this line to a point 1/4 mile south of Charles Road; thence northwesterly parallel to Charles Road to a point 1/4 miles south of the intersection of Charles Road and West Shore Road; thence northerly along West Shore Road to the Spokane River (Long Lake); thence southeasterly along the Spokane River to the point of beginning.
(4) broom, Scotch *Cytisus scoparius*	(a)	regions 3, 4, 6, 7, 9, 10.
(5) bryony, white *Bryonia alba*	(a) (b) (c)	regions 1, 2, 3, 4, 5, 6, 8, 9 region 7 except Whitman County Franklin County of region 10.
(6) bugloss, common *Anchusa officinalis*	(a) (b) (c)	regions 1, 2, 3, 5, 6, 8, 9, 10 region 4 except Stevens and Spokane counties Lincoln, Adams, and Whitman counties of region 7.
(7) bugloss, annual *Anchusa arvensis*	(a) (b) (c)	regions 1, 2, 3, 4, 5, 6, 8, 9 Lincoln and Adams counties Whitman County except ranges 43 through 46 East of Townships 16 through 20 North.
(8) camelthorn *Alhagi maurorum*	(a) (b) (c) (d)	regions 1, 2, 3, 4, 5, 7, 8, 9 region 6 except those portions of Sections 23, 24, 25, and 29 through 36, T16N, R27E, W.M. lying outside Intercounty Weed District No. 52 and except Sections 1 through 12, T15N, R27E, W.M. in Grant County and except the area west of Highway 17 and north of Highway 26 in Adams County Franklin, Columbia, Garfield, and Asotin counties of region 10 an area beginning at the Washington—Oregon border at the southwest portion of section 5, R32E, T6N, then north to the northwest corner of section 3, R32E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning.
(9) carrot, wild *Daucus carota*	(a) (b) (c)	regions 3, 7 (except where intentionally cultivated) Spokane and Ferry counties of region 4 (except where intentionally cultivated) region 6, except Yakima County (except where intentionally cultivated)

Name	Will be a "Class B designate" in all lands lying within:
	(d) region 9, except Yakima County (except where intentionally cultivated)
	(e) region 10, except Walla Walla County (except where intentionally cultivated.
(10) catsear, common *Hypochaeris radicata*	(a) regions 3, 4, 6, 7, 10 (b) region 9 except Klickitat County.
(11) chervil, wild *Anthriscus sylvestris*	(a) regions 1, 3, 4, 6, 7, 9, 10 (b) region 5 except those portions of Thurston County within T15, 16, 17N, R2, 3, 4W (c) region 2 except Guemes Island in Skagit County (d) region 8 except Clark County.
(12) cinquefoil, sulfur *Potentilla recta*	(a) regions 1, 3, 8, 10 (b) region 2 except Skagit County (c) region 4 except Stevens, Ferry, and Pend Oreille counties (d) region 5 except Thurston County (e) region 6 except Yakima County (f) region 7 except Spokane County (g) region 8 except Lewis County (h) region 9 except Klickitat County.
(13) cordgrass, smooth *Spartina alterniflora*	(a) regions 1, 3, 4, 5, 6, 7, 9, 10 (b) region 2 except Padilla Bay of Skagit County (c) region 8 except bays and estuaries of Pacific County.
(14) cordgrass, common *Spartina anglica*	(a) regions 1, 3, 4, 5, 6, 7, 8, 9, 10 (b) region 2 except bays and estuaries of Skagit and Island counties and except bays and estuaries north of Everett in Snohomish County.
(15) daisy, oxeye *Leucanthemum vulgare*	(a) regions 7, 10 (b) region 9 except those areas lying within Klickitat and Yakima counties west of Range 13 East (c) region 6 except those areas lying within Yakima and Kittitas counties west of Range 13 E.
(16) elodea, Brazilian *Egeria densa*	(a) regions 3, 4, 6, 7, 9, 10 (b) Lewis County of region 8 (c) Clallam County of region 1 (d) King County of region 5, except lakes Washington, Sammamish, Union and Fenwick.
(17) fanwort *Cabomba caroliniana*	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except T8N, R3W of Cowlitz County.
(18) fieldcress, Austrian *Rorippa austriaca*	(a) regions 1, 2, 3, 4, 5, 6, 8, 9 (b) regions 7 and 10 except within the Palouse River Canyon from Big Palouse Falls to the Snake River.
(19) floating heart, yellow *Nymphoides peltata*	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) region 4 except the Spokane River between Long Lake Dam and Nine Mile Dam.
(20) gorse *Ulex europaeus*	(a) regions 1, 3, 4, 6, 7, 9, 10 (b) Skagit and Whatcom counties of region 2 (c) Thurston, Pierce, and King counties of region 5 (d) Wahkiakum, Cowlitz, and Lewis counties of region 8.
(21) hawkweed, mouseear *Hieracium pilosella*	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 except Thurston County (c) Thurston County lying within T17N, R1W, S31; T16N, R2W, S30 W1/2; T16N, R3W, S25, SE1/4; T16N, R3W, S36, N1/2; T16N, R2W, S31, NW1/4.
(22) hawkweed, orange *Hieracium aurantiacum*	(a) regions 3, 6, 9, 10 (b) Clallam County of region 1 (c) Skagit County of region 2 (d) Ferry County of region 4 (e) Thurston and King counties of region 5 (f) Lincoln and Adams counties of region 7 (g) Lewis County of region 8.
(23) hawkweed, polar *Hieracium atratum*	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 outside the boundaries of Mt. Rainier National Park.
(24) hawkweed, queen-devil *Hieracium glomeratum*	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) Ferry County of region 4.
(25) hawkweed, smooth *Hieracium laevigatum*	(a) regions 1, 3, 4, 5, 6, 7, 8, 9, 10 (b) San Juan, Island, and Skagit counties of region 2.
(26) hawkweed, yellow *Hieracium caespitosum*	(a) regions 1, 2, 3, 5, 6, 7, 8, 10 (b) region 4 except Stevens and Pend Oreille counties (c) region 9 except sections 32, 33 and 34 of T6N, R12E, and sections 4, 5, 6, and 7 of T5N, R12E, and section 12 of T5N, R11E, of Klickitat County.
(27) hedgeparsley *Torilis arvensis*	(a) regions 1, 2, 3, 4, 5, 6, 7, 8, 10 (b) Yakima, Benton, Franklin counties (c) Klickitat County except those lands lying within T4N, R10E, R11E, R12E, R13E, R14E; T3N, R10E, R11E, R12E, R13E; T2N, R12E, R13E.
(28) helmet, policeman's *Impatiens glandulifera*	(a) regions 1, 3, 4, 6, 7, 8, 9, 10 (b) region 2 except Whatcom County (c) region 5 except Pierce and Thurston counties.
(29) herb-Robert *Geranium robertianum*	(a) regions 3, 4, 6, 7, 9, 10
(30) houndstongue *Cynoglossum officinale*	(a) Kittitas County of region 6.
(31) indigobush *Amorpha fruticosa*	(a) regions 1, 2, 3, 4, 5, 6 (b) regions 7 and 10 except within 200 feet of the Snake River from Central Ferry downstream (c) regions 8, 9, and 10 except within 200 feet of the Columbia River.
(32) knapweed, black *Centaurea nigra*	(a) regions 1, 2, 3, 4, 7, 9, 10 (b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties (c) region 6 except Kittitas County (d) region 8 except Clark County.
(33) knapweed, brown *Centaurea jacea*	(a) regions 1, 2, 3, 4, 7, 9, 10 (b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties (c) region 6 except Kittitas County (d) region 8 except Clark County.
(34) knapweed, diffuse *Centaurea diffusa*	(a) regions 1, 2, 5, 8 (b) Grant County lying in Townships 13 through 16 North, Ranges 25 through 27 East; Townships 17 and 18 N., Ranges 25 through 30 East; Townships 19 and 20 North, Ranges 29 and 30 East; T21N, R23E, Sections 1 through 30; T21N, R26E., Sections 5, 6, 7, 8, 17, and 18; East 1/2 Township 21N, Range 27E.; T21N, Ranges 28 through 30 E; those portions of Townships 22 through 28N, Ranges 28 through 30 E.; those portions of Township 22 through 28N., Ranges 23 through 30E. lying in Grant County; all W.M.

Name	Will be a "Class B designate" in all lands lying within:
	(c) Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22, 26, 27, 28, 31, 32, 33 and 34; T15N, R37E, western half of Sections 23, 24 and 25; T15N, R38E, Sections 2, 10, 11, 14, 15, 19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6
	(d) Franklin County of regions 9 and 10.
(35) knapweed, meadow *Centaurea jacea x nigra*	(a) regions 1, 2, 3, 4, 7, 9, 10 (b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties (c) region 6 except Kittitas County (d) region 8 except Clark County.
(36) knapweed, Russian *Acroptilon repens*	(a) regions 1, 2, 5, 7, 8 (b) region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County (c) Adams County of region 6 except for the area west of Highway 17 and North of Highway 26 (d) Intercounty Weed District No. 52 (e) region 10 except Franklin County.
(37) knapweed, spotted *Centaurea biebersteinii*	(a) regions 1, 2, 3, 5, 6, 9 (b) Ferry County of region 4 (c) Adams and Whitman counties of region 7 (d) region 8, except that portion of Lewis County below the ordinary high watermark of the Tilton River from Hwy. 508 to Lake Mayfield (e) region 10 except Garfield County.
(38) knotweed, giant *Polygonum sachalinense*	(a) Kittitas County of region 6 (b) Pend Oreille County of region 4.
(39) knotweed, Himalayan *Polygonum polystachyum*	(a) Kittitas County of region 6 (b) Pend Oreille County of region 4 (c) Lewis County of region 8.
(40) knotweed, Japanese *Polygonum cuspidatum*	(a) Kittitas County of region 6 (b) Chelan County of regions 3 and 6 (c) Pend Oreille County of region 4.
(41) kochia *Kochia scoparia*	(a) Clallam County of region 1 (b) Skagit and Whatcom counties of region 2 (c) Pend Oreille County of region 4 (d) King County of region 5 (e) Kittitas County of region 6.
(42) lepyrodiclis *Lepyrodiclis holosteoides*	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10 (b) region 7 except an area within Whitman County east of the Pullman—Wawawai Road from Wawawai to Pullman and south of State Highway 270 from Pullman to Moscow, Idaho.
(43) loosestrife, garden *Lysimachia vulgaris*	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 except King County (c) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line.
(44) loosestrife, purple *Lythrum salicaria*	(a) regions 1, 4, 7, 8 (b) region 2 except Snohomish County (c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside (d) Grays Harbor, Mason, Kitsap, and Thurston counties of region 5 (e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line
	(f) Pierce County, except those areas lying within T2D, 21, 22N, R1W and R1E, all sections (g) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed (h) region 9 except Benton County (i) region 10 except Walla Walla County (j) Intercounty Weed Districts No. 51 and No. 52.
(45) loosestrife, wand *Lythrum virgatum*	(a) regions 1, 4, 7, 8 (b) region 2 except Snohomish County (c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside (d) region 5 except King County (e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line (f) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed (g) region 9 except Benton County (h) region 10 except Walla Walla County (i) Intercounty Weed Districts No. 51 and No. 52.
(46) nutsedge, yellow *Cyperus esculentus*	(a) regions 1, 2, 3, 4, 5, 7, 8 (b) region 6 except those areas lying between State Highway 26 and State Highway 28, and westerly of Dodson Road in Grant County, and except S 1/2, Sec. 2, T20N, R25E., W.M. (c) region 9 except: (i) except those areas lying within the following boundary description within Yakima County: Beginning at the intersection of Highway 12 and Parker Heights Road and continuing easterly to Konnowac Pass Road follow said road north to the intersection of Konnowac Pass Road and Nightingale Road. The northern boundary shall be the Roza Canal, continuing from the established point at Nightingale Road. The boundaries will follow the Roza Canal easterly to the County Line Road. The east boundaries will be the Yakima/Benton County Line from a point beginning at the County Line and Highway 22 (near Byron) continuing westerly along Highway 22 (to near the city of Mabton) to the intersection of Highway 22 and the Reservation Boundary (Division Road) and continuing north to the Yakima River. Then it will follow the river northwest to the Wapato-Donald Road continuing north along said road to Highway 12 then Highway 12 to Parker Heights Road.

Name		Will be a "Class B designate" in all lands lying within:
	(ii)	an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E of Klickitat County
	(d)	region 10 except Walla Walla County.
(47) oxtongue, hawkweed *Picris hieracioides*	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
	(b)	region 8 except Skamania County.
(48) parrotfeather *Myriophyllum aquaticum*	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
	(b)	region 8 except Clark, Cowlitz, and Wahkiakum counties.
(49) pepperweed, perennial *Lepidium latifolium*	(a)	regions 1, 2, 3, 4, 5, 7, 8, 10
	(b)	Intercounty Weed Districts No. 51 and 52
	(c)	Kittitas County of region 6
	(d)	Adams County of region 6 except for the area west of Highway 17 and north of Highway 26.
(50) primrose, water *Ludwigia hexapetala*	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
	(b)	region 8 except T8N, R3W, S14 of Cowlitz County.
(51) puncturevine *Tribulus terrestris*	(a)	Skagit County of region 2
	(b)	Kittitas County of region 6
	(c)	Adams County
	(d)	Clallam County of region 1.
(52) ragwort, tansy *Senecio jacobaea*	(a)	regions 3, 4, 6, 7, 9, 10
	(b)	region 5, that portion of Pierce County lying south or east of a boundary beginning at the White River and State Highway 410, then west along State Highway 410 to intersection with State Highway 162 (Orting) to intersection with Orville Road, then south along Orville Road to intersection with Kapowsin Highway (304th Street East), then west following Kapowsin Highway to intersection with State Route 7, then south along State Route 7 to intersection with State Route 702, then west along State Route 702 to intersection with State Route 507, then southwest along State Route 507 to intersection with the Nisqually River.
(53) Saltcedar *Tamarix ramosissima*	(a)	regions 1, 2, 3, 4, 5, 7, 8, unless intentionally established prior to 2004
	(b)	region 6 except Grant County, unless intentionally established prior to 2004
	(c)	region 9 except Benton and Franklin counties, unless intentionally established prior to 2004
	(d)	region 10 except Franklin County, unless intentionally established prior to 2004.
(54) sandbur, longspine *Cenchrus longispinus*	(a)	regions 1, 2, 3, 4, 5, 7, 8
	(b)	Adams County of region 6 except for that area lying within Intercounty Weed District No. 52
	(c)	Intercounty Weed District No. 51
	(d)	Kittitas County of region 6.
(55) skeletonweed, rush *Chondrilla juncea*	(a)	regions 1, 2, 3, 5, 8, 9
	(b)	Franklin County except T13N, R36E; and T14N, R36E
	(c)	Adams County except those areas lying east of a line running north from Franklin County along the western boundary of Range 36 East to State Highway 26 then north on Sage Road until it intersects Lee Road, then due north until intersection with Providence Road, then east to State Highway 261, then north along State Highway 261 to its intersection with Interstate 90, henceforth on a due north line to intersection with Bauman Road, then north along Bauman Road to its terminus, then due north to the Lincoln County line.
	(d)	region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road I Northwest
	(e)	Stevens County north of Township 33 North of region 4
	(f)	Ferry and Pend Oreille counties of region 4
	(g)	Asotin County of region 10
	(h)	Garfield County south of Highway 12
	(i)	Columbia County from the Walla Walla County line on Highway 12, all areas south of Turner Road; at Turner Road to the Garfield county line, all areas south and east of Turner Road
	(j)	Whitman County lying in Ranges 43 through 46 East of Townships 15 through 20 North; T14N, Ranges 44 through 46 East; and T13N, Ranges 45 and 46 East.
(56) sowthistle, perennial *Sonchus arvensis ssp. arvensis*	(a)	regions 1, 2, 3, 4, 7, 8, 9, 10
	(b)	Adams County of region 6
	(c)	region 5 except for sections 28, 29, 30, 31, 32, and 33 in T19N, R1E of Thurston and Pierce counties.
(57) spurge, leafy *Euphorbia esula*	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9, 10
	(b)	region 7 except as follows:
	(i)	T27N, R37E, Sections 34, 35, 36; T27N, R38E, Sections 31, 32, 33; T26N, R37E, Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 26; T26N, R38E, Sections 5, 6, 7, 8 of Lincoln County
	(ii)	T24N, R43E, Section 12, Qtr. Section 3, Parcel No. 9068 of Spokane County.
(58) spurge, myrtle *Euphorbia myrsinites L*	(a)	Pend Oreille County of region 4.
(59) starthistle, yellow *Centaurea solstitialis*	(a)	regions 1, 2, 3, 5, 6, 8
	(b)	region 4 except those areas within Stevens County bounded by a line beginning at the intersection of State Highway 20 and State Highway 25, then north to intersection with Pinkston Creek Road, then east along Pinkston Creek Road to intersection with Highland Loop Road, then south along Highland Loop Road to intersection with State Highway 20, then west along State Highway 20 to intersection with State Highway 25
	(c)	region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border
	(d)	Franklin County
	(e)	region 9 except Klickitat County
	(f)	in all lands lying within Asotin County, Region 10, except as follows: T11N, R44E, Sections 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35; T11N, R45E, Sections 21, 22, 23, and 25; T11N, R36E, Sections 19, 20, 21, 28, 29, 30, 31, 32, and 33; T10N, R44E, Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 15, and 16; T10N, R45E, Sections 23 and 24; T10N, R46E, Sections 7, 8, 17, 18, 19, 20, 21, 22, 27, 34, and 35; T9N, R46E, Sections 1, 2, 12, 13, 14, 23, 24, 25, 26, 35, and 36; T9N, R47E, Sections 18, 19, 30, and 31; T8N, R46E, Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 23, and 24; T8N, R47E, Sections 8, 17, 18, 19, 20, 29, 30, 31, and 32.
(60) Swainsonpea *Sphaerophysa salsula*	(a)	regions 1, 2, 3, 4, 5, 7, 8
	(b)	Columbia, Garfield, Asotin, and Franklin counties
	(c)	an area beginning at the Washington—Oregon border at the southwest portion of Section 15, R32E, T6N, then north to the northwest corner of Section 3, R32E, T7N, then east to the northeast corner of Section 3,

Name		Will be a "Class B designate" in all lands lying within:
		R36E, T7N, then south to the southeast portion of Section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning
	(d)	Weed District No. 3 of Grant County
	(e)	Adams County of region 6.
(61) thistle, musk	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10
Carduus nutans	(b)	Spokane and Pend Oreille counties.
(62) thistle, plumeless	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10
Carduus acanthoides	(b)	region 4 except those areas within Stevens County lying north of State Highway 20.
(63) thistle, Scotch	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
Onopordum acanthium	(b)	region 7 except for those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border
	(c)	Franklin County.
(64) toadflax, Dalmatian	(a)	regions 1, 2, 5, 8, 10
Linaria dalmatica ssp. dalmatica	(b)	Douglas County of region 3 lying south of T25N, west of R25E, and east of R28E
	(c)	Okanogan County lying within T 33, 34, 35N, R19, 20, 21, 22E, except the southwest, southeast, and northeast quarters of the northeast quarter of section 27, T35N, R21E; and the northeast quarter of the southeast quarter of section 27, T35N, R21E
	(d)	Kittitas, Chelan, Douglas, and Adams counties of region 6
	(e)	Intercounty Weed District No. 51
	(f)	Weed District No. 3 of Grant County
	(g)	Lincoln and Adams counties
	(h)	The western two miles of Spokane County of region 7
	(i)	region 9 except as follows: (i) those areas lying within Yakima County (ii) those areas lying west of the Klickitat River and within Klickitat County.
(65) watermilfoil, Eurasian	(a)	regions 1, 9, 10
Myriophyllum spicatum	(b)	region 7 except Spokane County
	(c)	region 8 except within 200 feet of the Columbia River
	(d)	Adams County of region 6
	(e)	in all water bodies of public access, except the Pend Oreille River, in Pend Oreille County of region 4.

[Statutory Authority: Chapters 17.10 and 34.05 RCW. 03-24-012, § 16-750-011, filed 11/20/03, effective 12/21/03; 03-04-001, § 16-750-011, filed 1/22/03, effective 2/22/03. Statutory Authority: Chapter 17.10 RCW. 01-24-035, § 16-750-011, filed 11/28/01, effective 12/29/01; 00-24-017, § 16-750-011, filed 11/28/00, effective 1/2/01; 99-24-029, § 16-750-011, filed 11/23/99, effective 1/3/00; 98-24-026, § 16-750-011, filed 11/23/98, effective 1/2/99; 97-24-051, § 16-750-011, filed 11/26/97, effective 1/2/98; 97-06-108, § 16-750-011, filed 3/5/97, effective 4/5/97. Statutory Authority: RCW 17.10.080. 96-06-030, § 16-750-011, filed 2/29/96, effective 3/31/96. Statutory Authority: Chapter 17.10 RCW. 95-06-002, § 16-750-011, filed 2/16/95, effective 3/19/95; 94-01-076, § 16-750-011, filed 12/10/93, effective 1/10/94; 93-01-004, § 16-750-011, filed 12/2/92, effective 1/2/93; 91-24-072, § 16-750-011, filed 12/2/91, effective 1/2/92; 91-01-016, § 16-750-011, filed 12/7/90, effective 1/7/91; 90-01-004, § 16-750-011, filed 12/7/89, effective 1/7/90; 88-24-002 (Order 26, Resolution No. 26), § 16-750-011, filed 11/29/88; 88-18-001 (Order 24, Resolution No. 24), § 16-750-011, filed 8/25/88. Statutory Authority: RCW 17.10.080. 88-07-016 (Order 22, Resolution No. 22), § 16-750-011, filed 3/7/88.]

WAC 16-750-015 State noxious weed list—Class C noxious weeds.

Common Name	Scientific Name
babysbreath	*Gypsophila paniculata*
beard, old man's	*Clematis vitalba*
bindweed, field	*Convolvulus arvensis*
canarygrass, reed	*Phalaris arundinacea*
cockle, white	*Silene latifolia ssp. alba*
cocklebur, spiny	*Xanthium spinosum*
cress, hoary	*Cardaria draba*
dodder, smoothseed alfalfa	*Cuscuta approximata*
goatgrass, jointed	*Aegilops cylindrica*
groundsel, common	*Senecio vulgaris*
hawkweed, nonnative species	*Hieracium sp.,* except species designated in the note in the left-hand column

Note:
This listing includes all species of Hieracium, except the following:
• Species designated as Class A noxious weeds in WAC 16-750-005;
• Species designated as Class B noxious weeds in WAC 16-750-011;
• native species designated below:
– Canada hawkweed (H. canadense)
– houndstongue hawkweed (H. cynoglossoides)
– long-beaked hawkweed (H. longiberbe)
– narrow-leaved hawkweed (H. umbellatum)
– slender hawkweed (H. gracile)
– western hawkweed (H. albertinum)
– white-flowered hawkweed (H. albiflorum)
– woolley-weed (H. scouleri)

henbane, black	*Hyoscyamus niger*
iris, yellow flag	*Iris pseudocorus*
ivy, English, 4 cultivars only:	*Hedera hibernica 'Hibernicia'* *Hedera helix 'Baltica'* *Hedera helix 'Pittsburgh'* *Hedera helix 'Star'*
knotwood, Bohemian	*Polygonum x Bohemicum*
mayweed, scentless	*Matricaria perforata*
poison-hemlock	*Conium maculatum*
reed, common, nonnative geno types	*Phragmites australis*
rye, cereal	*Secale cereale*
spikeweed	*Hemizonia pungens*
St. Johnswort, common	*Hypericum perforatum*
tansy, common	*Tanacetum vulgare*
thistle, bull	*Cirsium vulgare*
thistle, Canada	*Cirsium arvense*
toadflax, yellow	*Linaria vulgaris*
water lily, fragrant	*Nymphaea odorata*
whitetop, hairy	*Cardaria pubescens*
willow-herb, hairy	*Epilobium hirsutum*
wormwood, absinth	*Artemisia absinthium*

[Statutory Authority: Chapters 17.10 and 34.05 RCW. 03-24-012, § 16-750-015, filed 11/20/03, effective 12/21/03; 03-04-001, § 16-750-015, filed 1/22/03, effective 2/22/03. Statutory Authority: Chapter 17.10 RCW. 01-24-035, § 16-750-015, filed 11/28/01, effective 12/29/01; 00-24-017, § 16-750-015, filed 11/28/00, effective 1/2/01; 99-24-029, § 16-750-015, filed 11/23/99, effective 1/3/00; 98-24-026, § 16-750-015, filed 11/23/98, effective 1/2/99; 97-06-108, § 16-750-015, filed 3/5/97, effective 4/5/97. Statutory Authority: RCW 17.10.080. 96-06-030, § 16-750-015, filed 2/29/96, effective 3/31/96. Statutory Authority: Chapter 17.10 RCW. 95-06-002, § 16-750-015, filed 2/16/95, effective 3/19/95; 94-01-076, § 16-750-015, filed 12/10/93, effective 1/10/94; 93-01-004, § 16-750-015, filed 12/2/92, effective 1/2/93; 91-24-072, § 16-750-015, filed 12/2/91, effective 1/2/92; 91-01-016, § 16-750-015, filed 12/7/90, effective 1/7/91; 90-01-004, § 16-750-015, filed 12/7/89, effective 1/7/90; 88-24-002 (Order 26, Resolution No. 26), § 16-750-015, filed 11/29/88. Statutory Authority: RCW 17.10.080. 88-07-016 (Order 22, Resolution No. 22), § 16-750-015, filed 3/7/88.]

Chapter 16-752 WAC
NOXIOUS WEED CONTROL

WAC

16-752-300 Establishing quarantine.
16-752-305 Quarantine area.
16-752-315 Regulations.
16-752-320 Costs of quarantine.

WAC 16-752-300 Establishing quarantine. Yellow nutsedge **(Cyperus esculentus L.)** is a herbaceous perennial that is one of the most serious noxious weeds of agronomic crops. It propagates by seed, rhizomes, bulbs, and nutlets. Soil containing nutlets is the primary mode of spread in cultivated land. It is highly invasive and its unchecked spread would entail great economic loss to the agricultural industries of the state. It is a class B noxious weed designated for control in Thurston County (WAC 16-750-011 (33)(a)). Yellow nutsedge infests a plant nursery site at the Port of Olympia in Tumwater, Washington. Movement of material from this site initiates additional infestations. RCW 17.10.210 provides that either the director or the county noxious weed control board or a weed district may issue an order for quarantine and restriction or denial of access to land determined to be so seriously infested that control measures cannot be undertaken without quarantine of the land. The director has determined:

(1) That the identified site is so seriously infested as to require quarantine; and

(2) That the movement of contaminated materials from this site presents an immediate threat of infestation to the rest of the county agricultural and nonagricultural areas; and

(3) That the restriction of such spread is critical to control efforts.

[Statutory Authority: Chapters 17.10, 17.24, and 34.05 RCW. 03-16-038, § 16-752-300, filed 7/30/03, effective 8/30/03. Statutory Authority: Chapter 17.10 RCW. 98-01-056, § 16-752-300, filed 12/11/97, effective 1/11/98; 91-03-045 (Order 2069), § 16-752-300, filed 1/11/91, effective 2/11/91; 89-24-090, § 16-752-300, filed 12/6/89, effective 1/6/90.]

WAC 16-752-305 Quarantine area. The quarantine area shall encompass the Port of Olympia, located at the Olympia Airport, Tumwater, Washington, and more particularly described as follows:

County of Thurston, state of Washington:

Parcel number 12711230000 - a portion of this parcel containing twenty-two acres of nursery production, more or less and three access roads one of which begins at 85th Avenue SW, the other two begin at Old Highway 99 SW.

A tract of land in Section 11, Township 17 north, Range 2 west of the Willamette Meridian, more particularly described as follows:

A portion of the Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter, Section 11, Township 17 North, Range 2 West, W.N., Thurston County, Washington.

Beginning at the South Quarter corner of Section 11; thence north 01°53'09"E, along the center of the section line 77.6 feet to the southerly edge of the infestation, said point being 75 feet northerly of the center of taxiway 5 and the point of beginning; thence south 88°14'46"E parallel to and 75 feet northerly of taxiway 5, 1254.2 feet to coordinate pair N 604966 E 1043268 North American Datum 83/91, Washington State Lambert projection South Zone; thence north 01°32'43"E parallel to and 75 feet westerly of taxiway 5, 256.1 feet (N 605222 E 1043275); thence north 74°44'42"W, parallel to and 200 feet southerly of runway 8-26, 2031.7 feet (N 605757 E 1041315); thence south 12°53'58"W, parallel to and 75 feet easterly of taxiway 4, 744.6 feet (N 605031 E 1041148); thence south 88°14'46"E parallel to and 75 feet northerly of taxiway 5, 866.5 feet to the point of beginning.

TOGETHER WITH: Two (2) 50 foot easements for ingress and egress described as follows: Beginning at the centerline of Old Highway 99 at coordinate pair N 605688 E 1044159; thence south 62°13'04"W, 337 feet (N 605531 E 1043861); thence south 37°34'07"W, 66 feet (N 605479 E 1043821); thence south 15°34'51"W, 432 feet (N 605063 E 1043705); thence south 56°50'31"W, 90 feet (N 605014 E 1043630); thence north 73°42'21"W, 135 feet (N 605052 E 1043500); thence south 73°31'23"W, 47 feet (N 605031 E 1043429).

Beginning at the coordinate pair N 605479 E 1043821; thence north 10°18'17"W, 78 feet (N 605556 E 103807); thence north 52°23'38"W, 93 feet (N 605613 E 1043733); thence north 74°34'40"W, 331 feet (N 605701 E 1043414); thence north 24°31'11"W, 63 feet (N 605758 E 1043388); thence north 0°58'36"W, 352 feet (N 606110 E 1043382).

Beginning at the end of 85th Avenue SE; thence north 14°36'57"W, 44 feet; thence north 1°44'13"E, 103 feet; thence north 1°44'13"E, 122 feet; thence north 4°2'36"E, 103 feet; thence north 1°44'13"E, 140 feet; thence north 3°31'10"E, 134 feet; thence north 1°44'13"E, 146 feet; thence north 6°43'41"W, 141 feet; thence north 6°3'35"W, 92 feet; thence north 1°44'13"E, 128 feet; thence north 15°58'50"W, 96 feet; thence south 85°33'49"W, 113 feet; thence north 88°15'39"W, 100 feet; thence north 85°38'49"W, 133 feet; thence north 88°15'36"W, 137 feet; thence north 85°28'20"W, 125 feet; thence south 89°35'45"W, 162 feet; thence north 88°15'32"W, 129 feet; thence north 88°15'30"W, 200 feet; thence north 88°15'28"W, 150 feet; thence north 85°43'23"W, 137 feet; thence north 88°38'45"E, 113 feet; thence north 83°56'12"W, 242 feet; thence north 40°38'52"W, 25 feet; thence north 40°6'3"W, 25 feet.

[Statutory Authority: Chapters 17.10, 17.24, and 34.05 RCW. 03-16-038, § 16-752-305, filed 7/30/03, effective 8/30/03. Statutory Authority: Chapter 17.10 RCW. 98-01-056, § 16-752-305, filed 12/11/97, effective 1/11/98; 91-03-045 (Order 2069), § 16-752-305, filed 1/11/91, effective 2/11/91; 89-24-090, § 16-752-305, filed 12/6/89, effective 1/6/90.]

WAC 16-752-315 Regulations. Use of the property identified in WAC 16-752-305 is restricted as follows:

(1) All removal of sand or soil, potted nursery plants and other plants from the quarantine site, except as provided in subsection (6) of this section, is prohibited without a permit from the Thurston County noxious weed control board that details the end use and exact geographic destination.

(2) All land disturbing operations including excavation, utilities work, and similar activities require a one time, no fee permit from the weed board that obligates the operator to thoroughly hose down all equipment before leaving the quarantine area and record the next two areas where the equipment is used after leaving the quarantine area.

(3) All off-road vehicles are banned in the quarantine area without the written permission of the Thurston County noxious weed control board, except in designated parking areas.

(4) All weed control measures and irrigation practices in the quarantine area are to be conducted at the direction of the Thurston County noxious weed control board.

(5) Yellow nutsedge control shall take precedence over all other land uses in the quarantine area.

(6) The Thurston County noxious weed control board may designate and clearly mark portions of the site as free from infestation and allow removal of sand or soil from these areas without specific permit to nonagricultural sites: Provided, That adequate precautions are taken to prevent commingling of infested and noninfested soils and equipment used in the infested area is thoroughly cleaned before use in the area designated as uninfested.

[Statutory Authority: Chapters 17.10, 17.24, and 34.05 RCW. 03-16-038, § 16-752-315, filed 7/30/03, effective 8/30/03. Statutory Authority: Chapter 17.10 RCW. 98-01-056, § 16-752-315, filed 12/11/97, effective 1/11/98; 91-03-045 (Order 2069), § 16-752-315, filed 1/11/91, effective 2/11/91; 89-24-090, § 16-752-315, filed 12/6/89, effective 1/6/90.]

WAC 16-752-320 Costs of quarantine. The costs of serving the notice required by RCW 17.10.210(2) shall be borne by the department. The costs of control work shall be borne by the landowner unless otherwise determined by the Thurston County noxious weed control board or the director in consultation with the Washington state noxious weed control board.

[Statutory Authority: Chapters 17.10, 17.24, and 34.05 RCW. 03-16-038, § 16-752-320, filed 7/30/03, effective 8/30/03. Statutory Authority: Chapter 17.10 RCW. 98-01-056, § 16-752-320, filed 12/11/97, effective 1/11/98; 91-03-045 (Order 2069), § 16-752-320, filed 1/11/91, effective 2/11/91; 89-24-090, § 16-752-320, filed 12/6/89, effective 1/6/90.]

Title 51 WAC

COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT OF (BUILDING CODE COUNCIL)

Chapters

51-04	**Policies and procedures for consideration of statewide and local amendments to the State Building Code.**
51-11	**Washington State Energy Code.**
51-40	**State Building Code adoption and amendment of the 1997 edition of the Uniform Building Code.**
51-42	**State Building Code adoption and amendment of the 1997 edition of the Uniform Mechanical Code.**
51-44	**State Building Code adoption and amendment of the 1997 edition of the Uniform Fire Code.**
51-45	**State Building Code adoption and amendment of the 1997 edition of the Uniform Fire Code standards.**
51-50	**State Building Code adoption and amendment of the 2003 edition of the International Building Code.**
51-51	**State Building Code adoption and amendment of the 2003 edition of the International Residential Code.**
51-52	**State Building Code adoption and amendment of the 2003 edition of the International Mechanical Code.**
51-54	**State Building Code adoption and amendment of the 2003 edition of the International Fire Code.**
51-56	**State Building Code adoption and amendment of the 2003 edition of the Uniform Plumbing Code.**
51-57	**State Building Code adoption and amendment of Appendix A, B and Appendix I of the 2003 edition of the Uniform Plumbing Code.**

Chapter 51-04 WAC

POLICIES AND PROCEDURES FOR CONSIDERATION OF STATEWIDE AND LOCAL AMENDMENTS TO THE STATE BUILDING CODE

WAC

51-04-015	Definitions.
51-04-020	Policies for the consideration of proposed statewide amendments.
51-04-060	Opinions.

WAC 51-04-015 Definitions. (1) "Supplements and accumulative supplements" mean the publications between editions of the model codes and standards which include changes to the current edition of the model codes and standards.

(2) "Council" means the Washington state building code council.

(3) "Emergency statewide amendment" means any proposed statewide amendment, the adoption of which is necessary immediately in order to protect life, safety or health of building occupants; preserve the structural integrity of buildings built to the state building code; to correct errors and omissions; or by the direction of the Washington state legislature or federal legislation. Emergency statewide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(4) "Local government amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions.

(5) "Local government residential amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions, that applies to single and multifamily buildings as defined by RCW 19.27.015.

(6) "State building code" means the International Building Code including regulations for accessibility; the International Residential Code; the International Mechanical Code except that the standards for liquefied petroleum gas installations shall be NFPA 58 (Storage and Handling of Liquefied Petroleum Gases) and ANSI Z223.1/NFPA 54 (National Fuel Gas Code); the International Fire Code including those standards of the National Fire Protection Association specifically referenced in the International Fire Code; the Uniform Plumbing Code and Standards, as designated in RCW 19.27.031; the state energy code; and any other codes so designated by the Washington state legislature as adopted and amended by the council.

(7) "Statewide amendment" means any amendment to the building code, initiated through council action or by petition to the council from any agency, city or county, or interested individual or organization, that would have the effect of amending the building code for the entire state of Washington. Statewide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(8) "State building code update cycle" means that period during which the model code and standards referenced in chapter 19.27 RCW are updated and amended by the council in accordance with the Administrative Procedure Act, chapter 34.05 RCW hereinafter referred to as the "adoption period" and those additional periods when code changes are received for review as proposed amendments to the model codes, hereinafter referred to as "submission periods."

(9) "Model codes" means the International Building, Residential, Mechanical, and Fire Codes and the Uniform Plumbing Code as published by the International Code Council and the International Association of Plumbing and Mechanical Officials respectively.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-107, § 51-04-015, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.035 and 19.27.074. 98-24-077, § 51-04-015, filed 12/1/98, effective 7/1/99. Statutory Authority: RCW 19.27.074. 98-02-048, § 51-04-015, filed 1/5/98, effective 7/1/98. Statutory Authority: RCW 19.27.035 and chapter 34.05 RCW. 94-05-058, § 51-04-015, filed 2/10/94, effective 3/13/94. Statutory Authority: Chapters 19.27 and 34.05 RCW and 1989 c 348. 90-02-108, § 51-04-015, filed 1/3/90, effective 2/3/90.]

WAC 51-04-020 Policies for the consideration of proposed statewide amendments. Statewide and emergency statewide amendments to the state building code should be based on one of the following criteria:

(1) The amendment is needed to address a critical life/safety need.

(2) The amendment is needed to address a specific state policy or statute.

(3) The amendment is needed for consistency with state or federal regulations.

(4) The amendment is needed to address a unique character of the state.

(5) The amendment corrects errors and omissions.

Statewide and emergency statewide amendments to the state building code shall conform to the purposes, objectives, and standards prescribed in RCW 19.27.020.

The council will accept and consider petitions for emergency statewide amendments to the building code at any time, in accordance with RCW 19.27.074 and chapter 34.05 RCW.

The council will accept and consider all other petitions for statewide amendments in conjunction with the state building code update cycle, in accordance with RCW 19.27.074 and chapter 34.05 RCW, and WAC 51-04-015 and 51-04-020 as follows:

The state building code council shall identify a submission period of at least thirty days when revisions to the state building code may be submitted. The state building code council shall review all submissions and accept for future rule making those revisions favorably reviewed. Submissions must be received by March 1 to be considered for adoption by December 1 in any year. Revisions accepted shall be submitted to the International Code Council and the International Association of Plumbing and Mechanical Officials, respectively, as proposed revisions to the model codes (unless recently considered as amendments) and held for further review during the adoption period.

The adoption period commences upon availability of the publication of the new edition of the model codes by the International Code Council and the International Association of Plumbing and Mechanical Officials, and concludes with formal adoption of the revised building code by the council and final review by the state legislature. For the purposes of this section, the publication of supplements shall not be considered a new edition. At the beginning of the adoption period, the state building code council shall identify a limited submission period of at least thirty days. During this period, the council will receive revisions proposed to:

The model codes provided that the proposed revisions shall be limited to revisions which address changes in the model codes since the previous edition.

The state building code which addresses existing statewide amendments to the model codes.

The state building code which addresses portions of the state building code other than the model codes.

In addition, the state building code council shall review for adoption those proposed revisions to the model code accepted after preliminary review in those submission periods since the last adoption period. The state building code council shall consider the action of the International Code Council and the International Association of Plumbing and Mechanical Officials, respectively, in their consideration of these proposals.

Within sixty days of the receipt of the new edition of the model codes the council shall enter rule making to update the state building code.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-107, § 51-04-020, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.035 and chapter 34.05 RCW. 94-05-058, § 51-04-020, filed 2/10/94, effective 3/13/94. Statutory Authority: Chapters 19.27 and 34.05 RCW and 1989 c 348. 90-02-108, § 51-04-020, filed 1/3/90, effective 2/3/90; Order 76-02, § 51-04-020, filed 9/1/76.]

WAC 51-04-060 Opinions. RCW 19.27.031 grants the council authority to render opinions relating to the building code at the request of a local building official.

For the purposes of this section, the term "building official" means the local or state official, or their designee,

responsible for implementation and enforcement of the specific code provision on which the opinion is requested.

Council building code related opinions shall be limited to the state regulations for barrier-free facilities, the state energy code, the state ventilation and indoor air quality code, and council amendments to the model codes.

Council related opinions may be developed and approved by a standing committee of the council.

Opinions approved by a standing committee may be reviewed and modified by the council.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-107, § 51-04-060, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.035 and 19.27.074. 98-24-077, § 51-04-060, filed 12/1/98, effective 7/1/99. Statutory Authority: RCW 19.27.035 and chapter 34.05 RCW. 94-05-058, § 51-04-060, filed 2/10/94, effective 3/13/94. Statutory Authority: Chapters 19.27 and 34.05 RCW and 1989 c 348. 90-02-108, § 51-04-060, filed 1/3/90, effective 2/3/90.]

Chapter 51-11 WAC
WASHINGTON STATE ENERGY CODE

WAC

51-11-0101 Section 101. Scope and general requirements.
51-11-0105 Inspections and enforcement.
51-11-0108 Conflicts with other codes.
51-11-0201 Scope.
51-11-0402 Systems analysis.
51-11-0502 Building envelope requirements.
51-11-0503 Building mechanical systems.
51-11-0504 Service water heating.
51-11-0505 Lighting.
51-11-0601 Scope.
51-11-0625 Table 6-1.
51-11-0701 Scope.
51-11-0900 Section 0900—Prescriptive heating system sizing.
51-11-1001 Section 1001 General.
51-11-1004 Section 1004: Floors over unconditioned space.
51-11-1005 Section 1005: Above-grade walls.
51-11-1007 Section 1007 Ceilings.
51-11-1009 Section 1009 Mass.
51-11-1143 Inspections.
51-11-1150 Conflicts with other codes.
51-11-1313 Moisture control.
51-11-1332 Component U-factors.
51-11-1412 Controls.
51-11-1415 Piping systems.
51-11-1532 Exterior lighting power allowance.
51-11-99902 Section 2—General principles and requirements.

WAC 51-11-0101 Section 101. Scope and general requirements.

101.1 Title: Chapters 1 through 10 of this Code shall be known as the "Washington State Residential Energy Code" and may be cited as such; and will be referred to herein as "this Code."

101.2 Purpose and Intent: The purpose of this Code is to provide minimum standards for new or altered buildings and structures or portions thereof to achieve efficient use and conservation of energy.

The purpose of this Code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this Code.

It is intended that these provisions provide flexibility to permit the use of innovative approaches and techniques to achieve efficient use and conservation of energy. These provisions are structured to permit compliance with the intent of this Code by any one of the following three paths of design:

1. A systems analysis approach for the entire building and its energy-using sub-systems which may utilize renewable energy sources, Chapter 4.

2. A component performance approach for various building elements and mechanical systems and components, Chapter 5.

3. A prescriptive requirements approach, Chapter 6.

Compliance with any one of these approaches meets the intent of this Code. This Code is not intended to abridge any safety or health requirements required under any other applicable codes or ordinances.

The provisions of this Code do not consider the efficiency of various energy forms as they are delivered to the building envelope. A determination of delivered energy efficiencies in conjunction with this Code will provide the most efficient use of available energy in new building construction.

101.3 Scope: This Code sets forth minimum requirements for the design of new buildings and structures that provide facilities or shelter for residential occupancies by regulating their exterior envelopes and the selection of their HVAC, service water heating systems and equipment for efficient use and conservation of energy.

Buildings shall be designed to comply with the requirements of either Chapter 4, 5, or 6 of this Code.

101.3.1 Exempt Buildings: Buildings and structures or portions thereof meeting any of the following criteria shall be exempt from the building envelope requirements of sections 502 and 602, but shall comply with all other requirements for building mechanical systems, and service water heating.

101.3.1.1: Buildings and structures or portions thereof whose peak design rate of energy usage is less than three and four tenths (3.4) Btu/h per square foot or one point zero (1.0) watt per square foot of floor area for space conditioning requirements.

101.3.1.2: Buildings and structures or portions thereof which are neither heated according to the definition of heated space in Chapter 2, nor cooled by a nonrenewable energy source, provided that the nonrenewable energy use for space conditioning complies with requirements of section 101.3.1.1.

101.3.1.3: Greenhouses isolated from any conditioned space and not intended for occupancy.

101.3.1.4: The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter 70.114A RCW or chapter 37, Laws of 1998 (SB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary,

seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

101.3.2 Application to Existing Buildings: Additions, historic buildings, changes of occupancy or use, and alterations or repairs shall comply with the requirements in the subsections below.

EXCEPTION: The building official may approve designs of alterations or repairs which do not fully conform with all of the requirements of this Code where in the opinion of the building official full compliance is physically impossible and/or economically impractical and:

1. The alteration or repair improves the energy efficiency of the building; or
2.The alteration or repair is energy efficient and is necessary for the health, safety, and welfare of the general public.

In no case, shall building envelope requirements or mechanical system requirements be less than those requirements in effect at the time of the initial construction of the building.

101.3.2.1 Additions to Existing Buildings: Additions to existing buildings or structures may be made to such buildings or structures without making the entire building or structure comply, provided that the new additions shall conform to the provisions of this Code.

EXCEPTION: New additions which do not fully comply with the requirements of this Code and which have a floor area which is less than seven hundred fifty square feet shall be approved provided that improvements are made to the existing occupancy to compensate for any deficiencies in the new addition. Compliance shall be demonstrated by either systems analysis or component performance calculations. The nonconforming addition and upgraded, existing occupancy shall have an energy budget or Target UA which is less than or equal to the unimproved existing building (minus any elements which are no longer part of the building envelope once the addition is added), with the addition designed to comply with this Code.

101.3.2.2 Historic Buildings: The building official may modify the specific requirements of this Code for historic buildings and require in lieu thereof alternate requirements which will result in a reasonable degree of energy efficiency. This modification may be allowed for those buildings which have been specifically designated as historically significant by the state or local governing body, or listed in The National Register of Historic Places or which have been determined to be eligible for listing.

101.3.2.3 Change of Occupancy or Use:

Any Other than Group R Occupancy which is converted to Group R Occupancy shall be brought into full compliance with this Code.

101.3.2.4 Alterations and Repairs: All alterations and repairs to buildings or portions thereof originally constructed subject to the requirements of this Code shall conform to the provisions of this Code without exception. For all other existing buildings, initial tenant alterations shall comply with the new construction requirements of this Code. Other alterations and repairs may be made to existing buildings and moved buildings without making the entire building comply with all of the requirements of this Code for new buildings, provided the following requirements are met:

101.3.2.5 Building Envelope: The result of the alterations or repairs both:

1. Improves the energy efficiency of the building, and

2. Complies with the overall average thermal transmittance values of the elements of the exterior building envelope in Table 5-1 of Chapter 5 or the nominal R-values and glazing requirements of the reference case in Tables 6-1 and 6-2.

EXCEPTIONS: 1. Untested storm windows may be installed over existing glazing for an assumed U-factor of 0.90, however, where glass and sash are being replaced in Group R Occupancy, glazing shall comply with the appropriate reference case in Table 6-1 and 6-2.

2. Where the structural elements of the altered portions of roof/ceiling, wall or floor are not being replaced, these elements shall be deemed to comply with this Code if all existing framing cavities which are exposed during construction are filled to the full depth with batt insulation or insulation having an equivalent nominal R-value while, for roof/ceilings, maintaining the required space for ventilation. Existing walls and floors without framing cavities need not be insulated. Existing roofs shall be insulated to the requirements of this Code if

a. The roof is uninsulated or insulation is removed to the level of the sheathing, or

b. All insulation in the roof/ceiling was previously installed exterior to the sheathing or nonexistent.

101.3.2.6 Building Mechanical Systems: Those parts of systems which are altered or replaced shall comply with section 503 of this Code.

101.3.2.7 Service Water Heating: Those parts of systems which are altered or replaced shall comply with section 504.

101.3.2.8 Lighting: Alterations shall comply with section 1132.3.

EXCEPTION: Group R-3 and R-4 Occupancy and the dwelling unit portions of Group R-1 and R-2 Occupancy.

101.3.3 Mixed Occupancy: When a building houses more than one occupancy, each portion of the building shall conform to the requirements for the occupancy housed therein. Where approved by the building official, where minor accessory uses do not occupy more than ten percent of the area of any floor of a building, the major use may be considered the building occupancy.

101.4 Amendments by Local Government: Except as provided in RCW 19.27A.020(7), this Code shall be the maximum and minimum energy code for Group R Occupancy in each town, city and county, no later than July 1, 1991.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-0101, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-0101, filed 1/5/01, effective 7/1/01. Statutory Authority: RCW 19.27.031 and 19.27.074. 98-24-078, § 51-11-0101, filed 12/1/98, effective 7/1/99. Statutory Authority: RCW 19.27A.025 and 19.27A.045. 98-03-003, § 51-11-0101, filed 1/8/98, effective 7/1/98. Statutory Authority: RCW 19.27A.025. 93-21-052, § 51-11-0101, filed 10/18/93, effective 4/1/94. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-0101, filed 12/19/90, effective 7/1/91.]

WAC 51-11-0105 Inspections and enforcement.

105.1 General: All construction or work for which a permit is required shall be subject to inspection by the building official and all such construction or work shall remain accessible and exposed for inspection purposes until approved by the building official.

105.2 Approvals Required: No work shall be done on any part of the building or structure beyond the point indicated in each successive inspection without first obtaining the approval of the building official.

105.2.1 Required Inspections: The building official, upon notification, shall make the following inspection in addition to those inspections required in section 109.3 of the International Building Code:

1. Wall insulation inspection: To be made after all wall insulation and air vapor retarder sheet or film materials are in place, but before any wall covering is placed.

105.3 Reinspection: The building official may require a structure to be reinspected.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-0105, filed 12/17/03, effective 7/1/04. Statutory Authority: Chapters 19.27 and 19.27A RCW and 1994 c 226. 95-01-126, § 51-11-0105, filed 12/21/94, effective 6/30/95. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-0105, filed 12/19/90, effective 7/1/91.]

WAC 51-11-0108 Conflicts with other codes. In addition to the requirements of this Code, all occupancies shall conform to the provisions included in the State Building Code (chapter 19.27 RCW). In case of conflicts among codes enumerated in RCW 19.27.031 (1), (2), (3), and (4) and this Code, the first named code shall govern over the following. Provided, in the case of conflict between the duct insulation requirements of this Code and the duct sealing and insulation requirements of Section 603 and 604 of the State Mechanical Code (chapter 51-52 WAC), the duct insulation requirements of this Code, or where applicable, a local jurisdiction's energy code shall govern.

Where, in any specific case, different sections of this Code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Wherever in this Code reference is made to the appendix, the provisions in the appendix shall not apply unless specifically adopted.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-0108, filed 12/17/03, effective 7/1/04; 02-24-076, § 51-11-0108, filed 12/4/02, effective 5/1/03. Statutory Authority: Chapters 19.27 and 19.27A RCW and 1994 c 226. 95-01-126, § 51-11-0108, filed 12/21/94, effective 6/30/95. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-0108, filed 12/19/90, effective 7/1/91.]

WAC 51-11-0201 Scope. The following definitions shall apply to chapters 1 through 20.

201.1 Application of Terms: For the purposes of this Code, certain abbreviations, terms, phrases, words and their derivatives, shall be as set forth in this chapter. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. In the event there is a question about the definition of a term, the definitions for terms in the codes enumerated in RCW 19.27.031 and the edition of Webster's dictionary referenced therein shall be considered as the sources for providing ordinarily accepted meanings.

Addition: See the Washington State Building Code.

Advanced framed ceiling: Advanced framing assumes full and even depth of insulation extending to the outside edge of exterior walls. (See Standard Framing and Section 1007.2 of this Code.)

Advanced framed walls: Studs framed on twenty-four inch centers with double top plate and single bottom plate. Corners use two studs or other means of fully insulating corners, and one stud is used to support each header. Headers consist of double 2X material with R-10 insulation between the header and exterior sheathing. Interior partition wall/exterior wall intersections are fully insulated in the exterior wall. (See Standard Framing and Section 1005.2 of this Code.)

AFUE. Annual fuel utilization efficiency: Unlike steady state conditions, this rating is based on average usage including on and off cycling as set out in the standardized Department of Energy Test Procedures.

Air conditioning, comfort: The process of treating air to control simultaneously its temperature, humidity, cleanliness and distribution to meet requirements of the conditioned space.

ARI: Air-Conditioning and Refrigeration Institute.

ASHRAE: American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc.

ASTM: American Society for Testing and Materials

Automatic: Self-acting, operating by its own mechanism when actuated by some impersonal influence, as for example, a change in current strength, pressure, temperature or mechanical configuration. (See **Manual.**)

Below grade walls: Walls or the portion of walls which are entirely below the finish grade or which extend two feet or less above the finish grade.

Boiler capacity: The rate of heat output in Btu/h measured at the boiler outlet, at the design inlet and outlet conditions and rated fuel/energy input.

Building envelope: For Group R Occupancy, the elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior or to or from spaces exempted by the provisions of Section 101.3.1. For other than Group R Occupancy, the elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior, or to or from unconditioned spaces, or to or from semi-heated spaces, or to or from spaces exempted by the provisions of Section 1301.

Building, existing: See the Washington State Building Code.

Building official: The official authorized to act in behalf of a jurisdiction code enforcement agency or its authorized representative.

Building project: A building or group of buildings, including on-site energy conversion or electric-generating facilities, which utilize a single submittal for a construction permit or are within the boundary of a contiguous area under one ownership.

Conditioned floor area: (See Gross conditioned floor area.)

Conditioned space: A cooled space, heated space (fully heated), heated space (semi-heated) or indirectly conditioned space.

Cooled space: An enclosed space within a building that is cooled by a cooling system whose sensible capacity

a. Exceeds 5 Btu/(h•ft²), or

b. Is capable of maintaining space dry bulb temperature of 90°F or less at design cooling conditions.

COP - Coefficient of performance: The ratio of the rate of net heat output (heating mode) or heat removal (cooling mode) to the rate of total on-site energy input to the heat pump, expressed in consistent units and under designated rating conditions. (See Net Heat Output, Net Heat Removal, Total On-Site Energy Input.)

Daylighted zone:

a. Under overhead glazing: The area under overhead glazing whose horizontal dimension, in each direction, is equal to the overhead glazing dimension in that direction plus either the floor to ceiling height or the dimension to a ceiling height opaque partition, or one-half the distance to adjacent overhead or vertical glazing, whichever is least.

b. At vertical glazing: The area adjacent to vertical glazing which receives daylighting from the glazing. For purposes of this definition and unless more detailed daylighting analysis is provided, the daylighting zone depth is assumed to extend into the space a distance of 15 feet or to the nearest ceiling height opaque partition, whichever is less. The daylighting zone width is assumed to be the width of the window plus either two feet on each side (the distance to an opaque partition) or one-half the distance to adjacent overhead or vertical glazing, whichever is least.

Daylight sensing control (DS): A device that automatically regulates the power input to electric lighting near the glazing to maintain the desired workplace illumination, thus taking advantage of direct or indirect sunlight.

Deadband: The temperature range in which no heating or cooling is used.

Design cooling conditions: The cooling outdoor design temperature from the 0.5% column for summer from the Puget Sound Chapter of ASHRAE publication "Recommended Outdoor Design Temperatures, Washington State, ASHRAE."

Design heating conditions: The heating outdoor design temperature from the 0.6% column for winter from the Puget Sound Chapter of ASHRAE publication "Recommended Outdoor Design Temperatures, Washington State, ASHRAE."

Door: All operable opening areas, which are not glazing, in the building envelope including swinging and roll-up doors, fire doors, smoke vents and access hatches.

Door area: Total area of door measured using the rough opening and including the door and frame.

Dwelling unit: See the Washington State Building Code.

EER. Energy efficiency ratio: The ratio of net equipment cooling capacity in Btu/h to total rate of electric input in watts under designated operating conditions.

Economizer, air: A ducting arrangement and automatic control system that allows a cooling supply fan system to supply outside air to reduce or eliminate the need for mechanical refrigeration during mild or cold weather.

Economizer, water: A system by which the supply air of a cooling system is cooled directly, indirectly or both, by evaporation of water or by other appropriate fluid in order to reduce or eliminate the need for mechanical refrigeration.

Efficiency, HVAC system: The ratio of useful energy (at the point of use) to the energy input for a designated time period, expressed in percent.

Emissivity: The ability to absorb infrared radiation. A low emissivity implies a higher reflectance of infrared radiation.

Energy: The capacity for doing work; taking a number of forms which may be transformed from one into another, such as thermal (heat), mechanical (work), electrical and chemical; in customary units, measured in kilowatt-hours (kWh) or British thermal units (Btu). (See **New energy.**)

Energy, recovered: (See **Recovered energy.**)

Exterior envelope: (See **Building envelope.**)

Facade area: Vertical projected area including nonhorizontal roof area, overhangs, cornices, etc. measured in elevation in a vertical plane parallel to the plane of the building face.

Floor over unconditioned space: A floor which separates a conditioned space from an unconditioned space which is buffered from exterior ambient conditions including vented crawl spaces and unconditioned basements or other similar spaces, or exposed to exterior ambient conditions including open parking garages and enclosed garages which are mechanically ventilated.

F-Factor: The perimeter heat loss factor expressed in Btu/hr • ft •°F.

F-Value: (See F-Factor.)

Garden window: A multisided glazing product that projects beyond the plane of the wall.

Glazed wall system: A category of site assembled fenestration products used in the NFRC 100 and NFRC 200 rating procedures that include curtainwalls.

Glazing: All areas, including the frames, in the shell of a conditioned space that let in natural light including windows, clerestories, skylights, sliding or swinging glass doors and glass block walls.

Glazing area: Total area of the glazing measured using the rough opening, and including the glazing, sash, and frame. For doors where the daylight opening area is less than 50% of the door area, the glazing area is the daylight opening area. For all other doors, the glazing area is the door area.

Gross conditioned floor area: The horizontal projection of that portion of interior space which is contained within exterior walls and which is conditioned directly or indirectly by an energy-using system, and which has an average height of five feet or greater, measured from the exterior faces.

Gross exterior wall area: The normal projection of the building envelope wall area bounding interior space which is conditioned by an energy-using system and which separates conditioned space from: Unconditioned space, or semiheated space, or exterior ambient conditions or earth; includes opaque wall, vertical glazing and door areas. The gross area of walls consists of all opaque wall areas, including foundation walls, between floor spandrels, peripheral edges of floors, vertical glazing areas and door areas, where such surfaces are exposed to exterior ambient conditions and enclose a conditioned space including interstitial areas between two such spaces. (See Below grade wall.)

Gross floor area: The sum of the areas of the several floors of the building, including basements, cellars, mezzanine and intermediate floored tiers and penthouses of headroom height, measured from the exterior faces of exterior walls or from the center line of walls separating buildings, but excluding: Covered walkways, open roofed-over areas, porches and similar spaces. Pipe trenches, exterior terraces or steps, chimneys, roof overhangs and similar features.

Gross roof/ceiling area: A roof/ceiling assembly shall be considered as all components of the roof/ceiling envelope through which heat flows, thus creating a building transmission heat loss or gain, where such assembly is exposed to exterior ambient conditions and encloses a conditioned space. The assembly does not include those components that are separated from a heated and/or cooled space by a vented airspace. The gross area of a roof/ceiling assembly consists of the total interior surface of such assembly, including overhead glazing.

Guest room: See the Washington State Building Code.

Heat: The form of energy that is transferred by virtue of a temperature difference.

Heat storage capacity: The physical property of materials (mass) located inside the building envelope to absorb, store, and release heat.

Heated space (Fully heated): An enclosed space within a building, including adjacent connected spaces separated by an uninsulated component (e.g., basements, utility rooms, garages, corridors), which is heated by a heating system whose output capacity is

a. Capable of maintaining a space dry-bulb temperature of 45°F or greater at design heating conditions; or

b. 8 Btu/(h•ft^2) or greater in Climate Zone 1 and 12 Btu/(h•ft^2) or greater in Climate Zone 2.

Heated space (Semi-heated): An enclosed space within a building, including adjacent connected spaces separated by an uninsulated component (e.g., basements, utility rooms, garages, corridors), which is heated by a heating system

a. Whose output capacity is 3 Btu/(h•ft^2) or greater in Climate Zone 1 and 5 Btu/(h•ft^2) or greater in Climate Zone 2; and

b. Is not a Heated Space (Fully Heated).

HSPF. Heating season performance factor: The total heating output (in Btu) of a heat pump during its normal annual usage period for heating divided by the total (watt hour) electric power input during the same period, as determined by test procedures consistent with the U.S. Department of Energy "Test Procedure for Central Air Conditioners, Including Heat Pumps" published in Standard RS-30. When specified in Btu per watt hour an HSPF of 6.826 is equivalent to a COP of 2.0.

Humidistat: A regulatory device, actuated by changes in humidity, used for automatic control of relative humidity.

HVAC: Heating, ventilating and air conditioning.

HVAC system components: HVAC system components provide, in one or more factory-assembled packages, means for chilling and/or heating water with controlled temperature for delivery to terminal units serving the conditioned spaces of the buildings. Types of HVAC system components include, but are not limited to, water chiller packages, reciprocating condensing units and water source (hydronic) heat pumps. (See **HVAC system equipment.**)

HVAC system efficiency: (See **Efficiency, HVAC system.**)

HVAC system equipment: HVAC system equipment provides, in one (single package) or more (split system) factory-assembled packages, means for air circulation, air cleaning, air cooling with controlled temperature and dehumidification; and optionally, either alone or in combination with a heating plant, the functions of heating and humidifying. The cooling function may be either electrically or heat operated and the refrigerant condenser may be air, water or evaporatively cooled. Where the equipment is provided in more than one package, the separate packages shall be designed by the manufacturer to be used together. The equipment may provide the heating function as a heat pump or by the use of electric elements. (The word "equipment" used without modifying adjective may, in accordance with common industry usage, apply either to HVAC system equipment or HVAC system components.)

Indirectly conditioned space: An enclosed space within a building that is not a heated or cooled space, whose area weighted heat transfer coefficient to heated or cooled spaces exceeds that to the outdoors or to unconditioned spaces; or through which air from heated or cooled spaces is transferred at a rate exceeding three air changes per hour. Enclosed corridors between conditioned spaces shall be considered as indirectly conditioned space. (See **Heated Space, Cooled Space** and **Unconditioned Space.**)

Infiltration: The uncontrolled inward air leakage through cracks and interstices in any building element and around windows and doors of a building caused by the pressure effects of wind and/or the effect of differences in the indoor and outdoor air density.

Insulation baffle: A rigid material, resistant to wind driven moisture, the purpose of which is to allow air to flow freely into the attic or crawl space and to prevent insulation from blocking the ventilation of these spaces, or the loss of insulation. Example materials for this purpose are sheet metal, or wax impregnated cardboard.

Insulation position:

a. **Exterior Insulation Position:** A wall having all or nearly all of its mass exposed to the room air with the insulation on the exterior of the mass.

b. **Integral Insulation Position:** A wall having mass exposed to both room and outside air, with substantially equal amounts of mass on the inside and outside of the insulation layer.

c. **Interior Insulation Position:** A wall not meeting either of the above definitions; particularly a wall having most of its mass external to the insulation layer.

International Building Code (IBC): (See Washington State Building Code.)

International Mechanical Code (IMC): (See Washington State Building Code.)

IPLV—Integrated part-load value: A single number figure of merit based on part-load EER or COP expressing part-load efficiency for air conditioning and heat pump equipment on the basis of weighted operation at various load capacities for the equipment as specified in the Air-Condi-

tioning and Refrigeration Institute (ARI) and Cooling Tower Institute (CTI) procedures.

Luminaire: A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the electric power supply.

Manual: Capable of being operated by personal intervention. (See **Automatic.**)

Microcell: A wireless communication facility consisting of an antenna that is either: (a) Four (4) feet in height and with an area of not more than 580 square inches; or (b) if a tubular antenna, no more than four (4) inches in diameter and no more than six (6) feet in length; and the associated equipment cabinet that is six (6) feet or less in height and no more than 48 square feet in floor area.

NFPA: National Fire Protection Association.

NFRC: National Fenestration Rating Council.

Net heat output: The change in the total heat content of the air entering and leaving the equipment (not including supplementary heat and heat from boilers).

Net heat removal: The total difference in heat content of the air entering and leaving the equipment (without heat) or the difference in total heat content of the water or refrigerant entering and leaving the component.

New energy: Energy, other than recovered energy, utilized for the purpose of heating or cooling. (See **energy.**)

Nominal R-value: The thermal resistance of insulation as specified by the manufacturer according to recognized trade and engineering standards.

Nonrenewable energy sources: All energy sources that are not renewable energy sources including natural gas, oil, coal, wood, liquified petroleum gas, steam, and any utility-supplied electricity.

Nonresidential: All buildings and spaces in the International Building Code (IBC) occupancies other than Group R.

Occupancy: See the Washington State Building Code.

Occupancy sensor: A device that detects occupants within an area, causing any combination of lighting, equipment or appliances to be turned on or shut off.

Opaque envelope areas: All exposed areas of a building envelope which enclose conditioned space, except openings for doors, glazing and building service systems.

Open blown: Loose fill insulation pneumatically installed in an unconfined attic space.

Outdoor air (outside air): Air taken from the outdoors and, therefore, not previously circulated through a building.

Overhead glazing: A glazing surface that has a slope of less than 60° from the horizontal plane.

Packaged terminal air conditioner: A factory-selected combination of heating and cooling components, assemblies or sections intended to serve a room or zone. (For the complete technical definition, see Standard RS-5.)

Permeance (perm): The ability of a material of specified thickness to transmit moisture in terms of amount of moisture transmitted per unit time for a specified area and differential pressure (grains per hour • ft^2 • inches of HG). Permeance may be measured using ASTM E-96-00 or other approved dry cup method as specified in RS-1.

Personal wireless service facility: A Wireless Communication Facility (WCF), including a microcell, which is a facility for the transmission and/or reception of radio frequency signals and which may include antennas, equipment shelter or cabinet, transmission cables, a support structure to achieve the necessary elevation, and reception and/or transmission devices or antennas.

Pool cover: A vapor-retardant cover which lies on or at the surface of the pool.

Power: In connection with machines, the time rate of doing work. In connection with the transmission of energy of all types, the rate at which energy is transmitted; in customary units, it is measured in watts (W) or British Thermal Units per hour (Btu/h).

Process energy: Energy consumed in support of a manufacturing, industrial, or commercial process other than the maintenance of building comfort or amenities for building occupants.

Radiant slab floor: A slab floor assembly on grade or below, containing heated pipes, ducts, or electric heating cables that constitute a floor or portion thereof for complete or partial heating of the structure.

Readily accessible: See the Washington State Mechanical Code.

Recooling: The removal of heat by sensible cooling of the supply air (directly or indirectly) that has been previously heated above the temperature to which the air is to be supplied to the conditioned space for proper control of the temperature of that space.

Recovered energy: Energy utilized which would otherwise be wasted (i.e. not contribute to a desired end use) from an energy utilization system.

Reheat: The application of sensible heat to supply air that has been previously cooled below the temperature of the conditioned space by either mechanical refrigeration or the introduction of outdoor air to provide cooling.

Renewable energy sources: Renewable energy sources of energy (excluding minerals) are derived from: (1) Incoming solar radiation, including but not limited to, natural daylighting and photosynthetic processes; (2) energy sources resulting from wind, waves and tides, lake or pond thermal differences; and (3) energy derived from the internal heat of the earth, including nocturnal thermal exchanges.

Reset: Adjustment of the set point of a control instrument to a higher or lower value automatically or manually to conserve energy.

Roof/ceiling assembly: (See Gross roof/ceiling area.)

SEER - Seasonal Energy Efficiency Ratio: The total cooling output of an air conditioner during its normal annual usage period, in Btu's, divided by the total electric energy input in watt-hours, during the same period, as determined by 10 CFR, Part 430.

Semi-heated space: Sub-category of **Heated Space.** (See **Heated Space.**)

Sequence: A consecutive series of operations.

Service systems: All energy-using systems in a building that are operated to provide services for the occupants or processes housed therein, including HVAC, service water heating, illumination, transportation, cooking or food preparation, laundering or similar functions.

Service water heating: Supply of hot water for domestic or commercial purposes other than comfort heating.

Shaded: Glazed area which is externally protected from direct solar radiation by use of devices permanently affixed

to the structure or by an adjacent building, topographical feature, or vegetation.

Shading coefficient: The ratio of solar heat gain occurring through nonopaque portions of the glazing, with or without integral shading devices, to the solar heat gain occurring through an equivalent area of unshaded, 1/8 inch thick, clear, double-strength glass.

Note: Heat gains to be compared under the same conditions. See Chapter 30 of Standard RS-1, listed in Chapter 7 of this Code.

Shall: Denotes a mandatory code requirement.

Single family: One and two family residential dwelling units with no more than two units in a single building.

Skylight: (See Overhead glazing.)

Slab-below-grade: Any portion of a slab floor in contact with the ground which is more than 24 inches below the final elevation of the nearest exterior grade.

Slab-on-grade, exterior: Any portion of a slab floor in contact with the ground which is less than or equal to twenty-four inches below the final elevation of the nearest exterior grade.

Small business: Any business entity (including a sole proprietorship, corporation, partnership, or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has fifty or fewer employees, or which has a million dollars or less per year in gross sales, of window products.

Solar energy source: Source of natural daylighting and of thermal, chemical or electrical energy derived directly from conversion of incident solar radiation.

Solar heat gain coefficient (SHGC): The ratio of the solar heat gain entering the space through the glazing product to the incident solar radiation. Solar heat gain includes directly transmitted solar heat and absorbed solar radiation which is then reradiated, conducted or convected into the space.

Split system: Any heat pump or air conditioning unit which is provided in more than one assembly requiring refrigeration piping installed in the field.

Standard framing: All framing practices not defined as "intermediate" or "advanced" shall be considered standard. (See Advanced framed ceiling, Advanced framed walls, Intermediate framed wall and Section 1005.2 of this Code.)

Substantial contact: A condition where adjacent building materials are placed in a manner that proximal surfaces are contiguous, being installed and supported as to eliminate voids between materials, without compressing or degrading the thermal performance of either product.

System: A combination of central or terminal equipment or components and/or controls, accessories, interconnecting means, and terminal devices by which energy is transformed so as to perform a specific function, such as HVAC, service water heating or illumination.

Tapering: Installation of a reduced level of ceiling insulation at the eaves, due to reduced clearance.

Thermal by-pass: An area where the envelope surrounding the conditioned space is breached, or where an ineffective application compromises the performance of a thermal or infiltration barrier, increasing the structure's energy consumption by exposing finished surfaces to ambient conditions and additional heat transfer.

Thermal conductance (C): Time rate of heat flow through a body (frequently per unit area) from one of its bounding surfaces to the other for a unit temperature difference between the two surfaces, under steady conditions ($Btu/hr \cdot ft^2 \cdot °F$).

Thermal resistance (R): The reciprocal of thermal conductance ($hr \cdot ft^2 \cdot °F/Btu$).

Thermal transmittance (U): The coefficient of heat transmission (air to air). It is the time rate of heat flow per unit area and unit temperature difference between the warm side and cold side air films ($Btu/hr \cdot ft^2 \cdot °F$).

Thermal transmittance, overall (U_o): The overall (average) heat transmission of a gross area of the exterior building envelope ($Btu/hr \cdot ft^2 \cdot °F$). The U_o-factor applies to the combined effect of the time rate of heat flows through the various parallel paths, such as glazing, doors and opaque construction areas, comprising the gross area of one or more exterior building components, such as walls, floors or roof/ceiling.

Thermostat: An automatic control device actuated by temperature and designed to be responsive to temperature.

Total on-site energy input: The combination of all the energy inputs to all elements and accessories as included in the equipment components, including but not limited to, compressor(s), compressor sump heater(s), circulating pump(s), purge devices, fan(s), and the HVAC system component control circuit.

Transmission coefficient: The ratio of the solar heat gain through a glazing system to that of an unshaded single pane of double strength window glass under the same set of conditions.

Transverse joint: The primary connection between air distribution system fittings.

U-factor: (See thermal transmittance.)

U-Value: (See U-factor.)

Uniform Plumbing Code (UPC): (See Washington State Plumbing Code.)

Unitary cooling and heating equipment: One or more factory-made assemblies which include an evaporator or cooling coil, a compressor and condenser combination, and may include a heating function as well. Where such equipment is provided in more than one assembly, the separate assemblies shall be designed to be used together.

Unitary heat pump: One or more factory-made assemblies which include an indoor conditioning coil, compressor(s) and outdoor coil or refrigerant-to-water heat exchanger, including means to provide both heating and cooling functions. When such equipment is provided in more than one assembly, the separate assemblies shall be designed to be used together.

Vapor retarder: A layer of low moisture transmissivity material (not more than 1.0 perm dry cup) placed over the warm side (in winter) of insulation, over the exterior of below grade walls, and under floors as ground cover to limit the transport of water and water vapor through exterior walls, ceilings, and floors. Vapor retarding paint, listed for this application, also meets this definition.

Vaulted ceilings: All ceilings where enclosed joist or rafter space is formed by ceilings applied directly to the underside of roof joists or rafters.

Ventilation: The process of supplying or removing air by natural or mechanical means to or from any space. Such air may or may not have been conditioned.

Ventilation air: That portion of supply air which comes from outside (outdoors) plus any recirculated air that has been treated to maintain the desired quality of air within a designated space.

Vertical glazing: A glazing surface that has a slope of 60° or greater from the horizontal plane.

Walls (exterior): Any member or group of members which defines the exterior boundaries or courts of a building and which have a slope of sixty degrees or greater with the horizontal plane, and separates conditioned from unconditioned space. Band joists between floors are to be considered a part of exterior walls.

Washington State Building Code: The Washington State Building Code is comprised of the International Building Code; the International Residential Code; the International Mechanical Code; the International Fire Code; the Uniform Plumbing Code; the state regulations for barrier-free facilities, as designated in RCW 19.27.031; the State Energy Code; and any other codes so designated by the Washington state legislature as adopted and amended by the State Building Code Council.

Zone: A space or group of spaces within a building with heating and/or cooling requirements sufficiently similar so that comfort conditions can be maintained throughout by a single controlling device. Each dwelling unit in residential buildings shall be considered a single zone.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-0201, filed 12/17/03, effective 7/1/04; 02-24-076, § 51-11-0201, filed 12/4/02, effective 5/1/03. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-0201, filed 1/5/01, effective 7/1/01; 98-03-003, § 51-11-0201, filed 1/8/98, effective 7/1/98. Statutory Authority: Chapters 19.27, 19.27A and 34.05 RCW. 94-05-059, § 51-11-0201, filed 2/10/94, effective 4/1/94. Statutory Authority: RCW 19.27A.025. 93-21-052, § 51-11-0201, filed 10/18/93, effective 4/1/94. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-0201, filed 12/19/90, effective 7/1/91.]

WAC 51-11-0402 Systems analysis.

402.1 Special Requirements for All Group R Occupancy:

402.1.1 Energy Budgets: Proposed buildings designed in accordance with this section shall be designed to use no more energy from nonrenewable sources for space heating, and domestic hot water heating than a standard building whose enclosure elements and energy consuming systems are designed in accordance with section 502.2 of this Code for the appropriate climate zone, and heating system type. Energy derived from renewable sources may be excluded from the total annual energy consumption attributed to the alternative building.

402.1.2 Calculation of Energy Consumption: The application for a building permit shall include documentation which demonstrates, using a calculation procedure as listed in Chapter 8, or an approved alternate, that the proposed building's annual space heating energy use does not exceed the annual space heating and water heating energy use of a standard building conforming to Chapter 5 of this Code for the appropriate climate zone. The total calculated annual energy consumption shall be shown in units of kWh/ft^2-yr or Btu/ft^2-yr of conditioned area.

402.1.3 Input Values: The following standardized input values shall be used in calculating annual space heating budgets:

PARAMETER	VALUE
Thermostat set point, heating	65° F
Thermostat set point, cooling	78° F
Thermostat night set back	65° F
Thermostat night set back period	0 hours
Internal gain	
R-3 and R-4 units	3000 Btu/hr
R-1 and R-2 units	1500 Btu/hr
Domestic Hot Water Heater Setpoint	120° F
Domestic Hot Water Consumption	20 gallons/person/day.
Minimum heat storage	Calculated using standard engineering practice for the actual building or as approved.
Site weather data	Typical meteorological year (TMY) or ersatz TMY data for the closest appropriate TMY site or other sites as approved.
Heating equipment efficiency	
Electric resistance heat	1.00
Heat Pumps	6.80 HSPF.
Other Fuels	0.78 AFUE.

The standard building shall be modeled with glazing area distributed equally among the four cardinal directions. Parameter values that may be varied by the building designer to model energy saving options include, but are not limited to, the following:

1. Overall thermal transmittance, U_o, of building envelope or individual building components;

2. Heat storage capacity of building;

3. Glazing orientation; area; and solar heat coefficients;

4. Heating system efficiency.

402.1.4 Solar Shading and Access: Building designs using passive solar features with eight percent or more south facing equivalent glazing to qualify shall provide to the building official a sun chart or other approved documentation depicting actual site shading for use in calculating compliance under this section. The building shall contain at least forty-five Btu/°F for each square foot of south facing glass.

402.1.5 Infiltration: Infiltration levels used shall be set at 0.35 air changes per hour for thermal calculation purposes only.

402.1.6 Heat Pumps: The heating season performance factor (HSPF) for heat pumps shall be calculated using procedures consistent with section 5.2 of the U.S. Department of

Energy Test Procedure for Central Air Conditioners, including heat pumps published in the December 27, 1979 Federal Register Vol. 44, No. 24.10 CFR 430. Climate data as specified above, the proposed buildings overall thermal performance value (Btu/°F) and the standardized input assumptions specified above shall be used to model the heat pumps HSPF.

402.2 Energy Analysis: Compliance with this chapter will require an analysis of the annual energy usage, hereinafter called an annual energy analysis.

EXCEPTIONS: Chapters 5, and 6 of this Code establish criteria for different energy-consuming and enclosure elements of the building which, will eliminate the requirement for an annual systems energy analysis while meeting the intent of this Code.

A building designed in accordance with this chapter will be deemed as complying with this Code if the calculated annual energy consumption is not greater than a similar building (defined as a "standard design") whose enclosure elements and energy-consuming systems are designed in accordance with Chapter 5.

For an alternate building design to be considered similar to a "standard design," it shall utilize the same energy source(s) for the same functions and have equal floor area and the same ratio of envelope area to floor area, environmental requirements, occupancy, climate data and usage operational schedule.

402.3 Design: The standard design, conforming to the criteria of Chapter 5 and the proposed alternative design shall be designed on a common basis as specified herein:

The comparison shall be expressed as kBtu or kWh input per square foot of conditioned floor area per year at the building site.

402.4 Analysis Procedure: The analysis of the annual energy usage of the standard and the proposed alternative building and system design shall meet the following criteria:

a. The building heating/cooling load calculation procedure used for annual energy consumption analysis shall be detailed to permit the evaluation of effect of factors specified in section 402.5.

b. The calculation procedure used to simulate the operation of the building and its service systems through a full-year operating period shall be detailed to permit the evaluation of the effect of system design, climatic factors, operational characteristics, and mechanical equipment on annual energy usage. Manufacturer's data or comparable field test data shall be used when available in the simulation of systems and equipment. The calculation procedure shall be based upon eight thousand seven hundred sixty hours of operation of the building and its service systems.

402.5 Calculation Procedure: The calculation procedure shall cover the following items:

a. Design requirements—Environmental requirements as required in Chapter 3.

b. Climatic data—Coincident hourly data for temperatures, solar radiation, wind and humidity of typical days in the year representing seasonal variation.

c. Building data—Orientation, size, shape, mass, air, moisture and heat transfer characteristics.

d. Operational characteristics—Temperature, humidity, ventilation, illumination, control mode for occupied and unoccupied hours.

e. Mechanical equipment—Design capacity, part load profile.

f. Building loads—Internal heat generation, lighting, equipment, number of people during occupied and unoccupied periods.

EXCEPTION: Group R Occupancy shall comply with calculation procedures in Chapter 8, or an approved alternate.

402.6 Documentation: Proposed alternative designs, submitted as requests for exception to the standard design criteria, shall be accompanied by an energy analysis comparison report. The report shall provide technical detail on the two building and system designs and on the data used in and resulting from the comparative analysis to verify that both the analysis and the designs meet the criteria of Chapter 4 of this Code.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-0402, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025 and 19.27A.045. 98-03-003, § 51-11-0402, filed 1/8/98, effective 7/1/98. Statutory Authority: Chapters 19.27, 19.27A and 34.05 RCW. 94-05-059, § 51-11-0402, filed 2/10/94, effective 4/1/94. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-0402, filed 12/19/90, effective 7/1/91.]

WAC 51-11-0502 Building envelope requirements.

502.1 General:

502.1.1: The stated U- or F-factor of any component assembly, listed in Table 5-1 or 5-2, such as roof/ceiling, opaque wall or opaque floor may be increased and the U-factor for other components decreased, provided that the total heat gain or loss for the entire building envelope does not exceed the total resulting from compliance to the U-factors specified in this section.

The U-factors for typical construction assemblies are included in Chapter 10. These values shall be used for all calculations. Where proposed construction assemblies are not represented in Chapter 10, values shall be calculated in accordance with Chapters 23-30 in Standard RS-1 listed in Chapter 7, using the framing factors listed in Chapter 10 where applicable.

For envelope assemblies containing metal framing, the U-factor shall be determined by one of the following methods:

1. Results of laboratory or field measurements.

2. Standard RS-1, listed in Chapter 7, where the metal framing is bonded on one or both sides to a metal skin or covering.

3. The zone method as provided in Chapter 25 of Standard RS-1, listed in Chapter 7.

4. Results of parallel path correction factors effective framing/cavity R-values as provided in Table 10-5A - EFFECTIVE R-VALUES FOR METAL FRAMING AND CAVITY ONLY for metal stud walls and roof/ceilings.

502.1.2: For consideration of thermal mass effects, see section 402.4.

502.1.3: When return air ceiling plenums are employed, the roof/ceiling assembly shall:

a. For thermal transmittance purposes, not include the ceiling proper nor the plenum space as part of the assembly; and

b. For gross area purposes, be based upon the interior face of the upper plenum surface.

502.1.4 Insulation:

502.1.4.1 General: All insulating materials shall comply with sections 2603 and/or 719 of the International Building Code. Substantial contact of the insulation with the surface being insulated is required. All insulation materials shall be installed according to the manufacturer's instructions to achieve proper densities and maintain uniform R-values and shall be installed in a manner which will permit inspection of the manufacturer's R-value identification mark. To the maximum extent possible, insulation shall extend over the full component area to the intended R-value.

Alternatively, the thickness of roof/ceiling and wall insulation that is either blown in or spray-applied shall be identified by inches of thickness, density and R-value markers installed at least one for every 300 square feet (28 m^2) through the attic, ceiling and/or wall space. In attics, the markers shall be affixed to the trusses or joists and marked with the minimum initial installed thickness and minimum settled thickness with numbers a minimum 1.0 inch (25 mm) in height. Each marker shall face the attic access. The thickness of installed attic insulation shall meet or exceed the minimum initial installed thickness shown by the marker. In cathedral ceilings and walls, the markers shall be affixed to the rafter and wall frame at alternating high and low intervals and marked with the minimum installed density and R-value with numbers a minimum 1.0 inch (25 mm) in height. Each marker shall face the conditioned room area.

502.1.4.2 Insulation Materials: All insulation materials including facings such as vapor barriers or breather papers installed within floor/ceiling assemblies, roof/ceiling assemblies, walls, crawl spaces, or attics shall have a flame spread rating of less than 25 and a smoke density not to exceed 450 when tested in accordance with ASTM E84-01.

EXCEPTIONS: 1. Foam plastic insulation shall comply with section 2603 of the International Building Code.

2. When such materials are installed in concealed spaces of Types III, IV and V construction, the flame spread and smoke developed limitations do not apply to facing, provided that the facing is installed in substantial contact with the unexposed surface of the ceiling, floor or wall finish.

3. Cellulose insulation shall comply with section 719 of the International Building Code.

502.1.4.3 Clearances: Where required, insulation shall be installed with clearances according to manufacturer's specifications. Insulation shall be installed so that required ventilation is unobstructed. For blown or poured loose fill insulation, clearances shall be maintained through installation of a permanent retainer.

502.1.4.4 Access Hatches and Doors: Access doors from conditioned spaces to unconditioned spaces (e.g., attics and crawl spaces) shall be weatherstripped and insulated to a level equivalent to the insulation on the surrounding surfaces. Access shall be provided to all equipment which prevents damaging or compressing the insulation. A wood framed or equivalent baffle or retainer must be provided when loose fill insulation is installed, the purpose of which is to prevent the loose fill insulation from spilling into the living space when the attic access is opened, and to provide a permanent means of maintaining the installed R-value of the loose fill insulation.

502.1.4.5 Roof/Ceiling Insulation: Open-blown or poured loose fill insulation may be used in attic spaces where the slope of the ceiling is not more than 3 feet in 12 and there is at least 30 inches of clear distance from the top of the bottom chord of the truss or ceiling joist to the underside of the sheathing at the roof ridge. When eave vents are installed, baffling of the vent openings shall be provided so as to deflect the incoming air above the surface of the insulation. Baffles shall be, rigid material, resistant to wind driven moisture. Requirements for baffles for ceiling insulation shall meet the International Building Code section 1203.2 for minimum ventilation requirements. When feasible, the baffles shall be installed from the top of the outside of the exterior wall, extending inward, to a point 6 inches vertically above the height of noncompressed insulation, and 12 inches vertically above loose fill insulation.

502.1.4.6 Wall Insulation: Insulation installed in exterior walls shall comply with the provisions of this section. All wall insulation shall fill the entire framed cavity. Exterior wall cavities isolated during framing shall be fully insulated to the levels of the surrounding walls. All faced insulation shall be face stapled to avoid compression.

502.1.4.7 Floor Insulation: Floor insulation shall be installed in a permanent manner in substantial contact with the surface being insulated. Insulation supports shall be installed so spacing is no more than 24 inches on center. Foundation vents shall be placed so that the top of the vent is below the lower surface of the floor insulation.

EXCEPTION: Insulation may be omitted from floor areas over heated basements, heated garages or underfloor areas used as HVAC supply plenums. When foundation walls are insulated, the insulation shall be attached in a permanent manner. The insulation shall not block the airflow through foundation vents when installed. When foundation vents are not placed so that the top of the vent is below the lower surface of the floor insulation, a permanently attached baffle shall be installed at an angle of 30° from horizontal, to divert air flow below the lower surface of the floor insulation.

502.1.4.8 Slab-On-Grade: Slab-on-grade insulation, installed inside the foundation wall, shall extend downward from the top of the slab for a minimum distance of 24 inches or downward and then horizontally beneath the slab for a minimum combined distance of 24 inches. Insulation installed outside the foundation shall extend downward to a minimum of 24 inches or to the frostline. Above grade insulation shall be protected.

EXCEPTION: For monolithic slabs, the insulation shall extend downward from the top of the slab to the bottom of the footing.

502.1.4.9 Radiant Slabs: The entire area of a radiant slab shall be thermally isolated from the soil, with a minimum of R-10 insulation. The insulation shall be an approved product for its intended use. If a soil gas control system is present below the radiant slab, which results in increased convective flow below the radiant slab, the radiant slab shall be thermally isolated from the sub-slab gravel layer.

502.1.4.10 Below Grade Walls: Below grade exterior wall insulation used on the exterior (cold) side of the wall shall extend from the top of the below grade wall to the top of the footing and shall be approved for below grade use. Above grade insulation shall be protected.

Insulation used on the interior (warm) side of the wall shall extend from the top of the below grade wall to the below grade floor level.

502.1.5 Glazing and Door U-factors: Glazing and door U-factors shall be determined in accordance with sections 502.1.5.1 and 502.1.5.2. All products shall be labeled with the NFRC certified or default U-factor. The labeled U-factor shall be used in all calculations to determine compliance with this Code. Sealed insulating glass shall conform to, or be in test for, ASTM E-774-81 class A.

EXCEPTIONS: 1. For glazed wall systems, assemblies with all of the following features are deemed to satisfy the vertical glazing U-factor requirement in Table 6-1 or 6-2 options with vertical glazing U-0.40 and greater:

a. Double glazing with a minimum 1/2 inch gap width, having a low-emissivity coating with e = 0.10 maximum, with 90% minimum argon gas fill, and a non-aluminum spacer (as defined in footnote 1 to Table 10-6B), and

b. Frame that is thermal break aluminum (as defined in footnote 9 to Table 10-6B), wood, aluminum clad wood, vinyl, aluminum clad vinyl, or reinforced vinyl.

The only labeling requirement for products using this exception shall be a description of the product and a label stating: "This product is deemed to satisfy the Table 6-1 or 6-2 vertical glazing U-factor requirement using the exception to Section 502.1.5 in the Washington State Energy Code."

2. For overhead glazing, assemblies with all of the following features are deemed to satisfy the overhead glazing U-factor requirement in Table 6-1 or 6-2 options **except** the unlimited glazing area options (Options IV and V in Table 6-1 and Options V and VI in Table 6-2):

a. Either, double glazing with a minimum 1/2 inch gap width, having a low-emissivity coating with e = 0.20 maximum, with 90% minimum argon gas fill, or, triple glazed plastic domes, and

b. Frame that is thermal break aluminum (as defined in footnote 9 to Table 10-6B), wood, aluminum clad wood, vinyl, aluminum clad vinyl, or reinforced vinyl.

The only labeling requirement for products using this exception shall be a description of the product and a label stating: "This product is deemed to satisfy the Table 6-1 or 6-2 overhead glazing U-factor requirement using the exception to Section 502.1.5 in the Washington State Energy Code."

3. For solariums with a floor area which does not exceed 300 square feet, assemblies which comply with the features listed in exception 2 are deemed to satisfy the vertical glazing and overhead glazing U-factor requirement in Table 6-1 or 6-2 options with vertical glazing U-0.40 and greater.

The only labeling requirement for products using this exception shall be a description of the product and a label stating: "This product is deemed to satisfy the Table 6-1 or 6-2 vertical glazing and overhead glazing U-factor requirements using the exception to Section 502.1.5 in the Washington State Energy Code."

502.1.5.1 Standard Procedure for Determination of Glazing U-factors: U-factors for glazing shall be determined, certified and labeled in accordance with the National Fenestration Rating Council (NFRC) Product Certification Program (PCP), as authorized by an independent certification and inspection agency licensed by the NFRC. Compliance shall be based on the Residential Model Size. Product samples used for U-factor determinations shall be production line units or representative of units as purchased by the consumer or contractor. Products that are listed in the NFRC Certified Products Directory or certified to the NFRC standard shall not use default values.

EXCEPTIONS: 1. Glazing products without NFRC ratings may be assigned default U-factors from Table 10-6A for vertical glazing and from Table 10-6E for overhead glazing.

2. Units without NFRC ratings produced by a small business may be assigned default U-factors from Table 10-6A for garden windows, from Table 10-6B for other vertical glazing, and from Table 10-6E for overhead glazing.

502.1.5.2 Standard Procedure for Determination of Door U-factors: All doors, including fire doors, shall be assigned default U-factors from Table 10-6C.

EXCEPTIONS: 1. U-factors determined, certified and labeled in accordance with the National Fenestration Rating Council (NFRC) Product Certification Program (PCP), as authorized by an independent certification and inspection agency licensed by the NFRC.

2. The default values for the opaque portions of doors shall be those listed in Table 10-6C, provided that the U-factor listed for a door with a thermal break shall only be allowed if both the door and the frame have a thermal break.

3. One unlabeled or untested exterior swinging door with the maximum area of 24 square feet may be installed for ornamental, security or architectural purposes. Products using this exception shall not be included in the U-factor calculation requirements, however glazing area shall be included in glazing area calculations.

502.1.6 Moisture Control:

502.1.6.1 Vapor Retarders: Vapor retarders shall be installed on the warm side (in winter) of insulation as specified in the following cases.

EXCEPTION: Vapor retarder installed with not more than 1/3 of the nominal R-value between it and the conditioned space.

502.1.6.2 Floors: Floors separating conditioned space from unconditioned space shall have a vapor retarder installed. The vapor retarder shall have a one perm dry cup rating or less (i.e., four mil [0.004 inch thick] polyethylene or kraft faced material).

502.1.6.3 Roof/Ceilings: Roof/ceiling assemblies where the ventilation space above the insulation is less than an average of 12 inches shall be provided with a vapor retarder. Faced batt insulation where used as a vapor retarder shall be face stapled. Single rafter joist vaulted ceiling cavities shall be of sufficient depth to allow a minimum one inch vented air space above the insulation.

502.1.6.4: Vapor retarders shall not be required in roof/ceiling assemblies where the ventilation space above the insulation averages 12 inches or greater.

502.1.6.5: Vapor retarders shall not be required where all of the insulation is installed between the roof membrane and the structural roof deck.

502.1.6.6 Walls: Walls separating conditioned space from unconditioned space shall have a vapor retarder installed. Faced batt insulation shall be face stapled.

502.1.6.7 Ground Cover: A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped 12 inches minimum at the joints and shall extend to the foundation wall.

EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of 3-1/2 inches.

502.2 Thermal Criteria for Group R Occupancy:

502.2.1 UA Calculations: The proposed UA as calculated using Equations 2 and 3 shall not exceed the target UA as calculated using Equation 1. For the purpose of determining equivalent thermal performance, the glazing area for the target UA shall be calculated using values in Table 5-1. The opaque door area shall be the same in the target UA and the proposed UA.

EXCEPTION: Log and solid timber walls that have a minimum average thickness of 3.5" and with space heat type other than electric resistance, are exempt from wall target UA and proposed UA calculations.

502.2.2 Space Heat Type: The following two categories comprise all space heating types:

1. Electric Resistance: Space heating systems which include baseboard units, radiant units and forced air units as either the primary or secondary heating system.

EXCEPTION: Electric resistance systems for which the total electric heat capacity in each individual dwelling unit does not exceed the greater of: 1) One thousand watts (1000 w) per dwelling unit, or; 2) One watt per square foot (1 w/ft^2) of the gross floor area.

2. Other: All gas, wood, oil and propane space heating systems, unless electric resistance is used as a secondary heating system, and all heat pump space heating systems. (See EXCEPTIONS, Electric Resistance, section 502.2.2 above.)

502.3 Reserved.

502.4 Air Leakage:

502.4.1 General: The requirements of this section shall apply to all buildings and structures, or portions thereof, and only to those locations separating outdoor ambient conditions from interior spaces that are heated or mechanically cooled.

502.4.2 Doors and Windows, General: Exterior doors and windows shall be designed to limit air leakage into or from the building envelope. Site-constructed doors and windows shall be sealed in accordance with Section 502.4.3.

502.4.3 Seals and Weatherstripping:

a. Exterior joints around windows and door frames, openings between walls and foundation, between walls and roof and wall panels; openings at penetrations of utility services through walls, floors and roofs; and all other openings in the building envelope for all occupancies and all other openings in between units in R-1 and R-2 Occupancy shall be sealed, caulked, gasketed or weatherstripped to limit air leakage. Other exterior joints and seams shall be similarly treated, or taped, or covered with moisture vapor permeable housewrap.

b. All exterior doors or doors serving as access to an enclosed unheated area shall be weatherstripped to limit leakage around their perimeter when in a closed position.

c. Site built windows are exempt from testing but shall be made tight fitting. Fixed lights shall have glass retained by stops with sealant or caulking all around. Operating sash shall have weatherstripping working against overlapping trim and a closer/latch which will hold the sash closed. The window frame to framing crack shall be made tight with caulking, overlapping membrane or other approved technique.

d. Openings that are required to be fire resistive are exempt from this section.

502.4.4 Recessed Lighting Fixtures: When installed in the building envelope, recessed lighting fixtures shall meet one of the following requirements:

1. Type IC rated, manufactured with no penetrations between the inside of the recessed fixture and ceiling cavity and sealed or gasketed to prevent air leakage into the unconditioned space.

2. Type IC rated, installed inside a sealed box constructed from a minimum 1/2 inch thick gypsum wall board, or constructed from a preformed polymeric vapor barrier, or other air tight assembly manufactured for this purpose.

3. Type IC rated, certified under ASTM E283 to have no more than 2.0 cfm air movement from the conditioned space to the ceiling cavity. The lighting fixture shall be tested at 75 Pascals or 1.57 lbs/ft^2 pressure difference and have a label attached, showing compliance.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-0502, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 02-01-112, § 51-11-0502, filed 12/18/01, effective 7/1/02; 01-03-010, § 51-11-0502, filed 1/5/01, effective 7/1/01; 98-03-003, § 51-11-0502, filed 1/8/98, effective 7/1/98. Statutory Authority: Chapters 19.27 and 19.27A RCW and 1994 c 226. 95-01-126, § 51-11-0502, filed 12/21/94, effective 6/30/95. Statutory Authority: Chapters 19.27, 19.27A and 34.05 RCW. 94-05-059, § 51-11-0502, filed 2/10/94, effective 4/1/94. Statutory Authority: Chapter 19.27A RCW. 92-01-140, § 51-11-0502, filed 12/19/91, effective 7/1/92. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-0502, filed 12/19/90, effective 7/1/91.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 51-11-0503 Building mechanical systems.

503.1 General: This section covers the determination of design requirements, system and component performance, control requirements, insulating systems and duct sealing. For all other duct construction requirements, refer to the State Mechanical Code (chapter 51-42 WAC).

503.2 Calculations of Heating and Cooling Loads, and System Sizing Limits: The design parameters specified in Chapter 3 shall apply for all computations.

503.2.1 Calculation Procedures: Heating and cooling design loads for the purpose of sizing HVAC systems are required and shall be calculated in accordance with accepted engineering practice, including infiltration and ventilation.

503.2.2 Space Heating and Space Cooling System Sizing Limits: Building mechanical systems for all buildings which provide space heating and/or space cooling shall be sized no greater than two hundred percent (200%) of the heating and cooling design loads as calculated above.

EXCEPTIONS: The following limited exemptions from the sizing limit shall be allowed; however, in all cases heating and/or cooling design load calculations shall be submitted.

1. For equipment which provides both heating and cooling in one package unit, including heat pumps with electric heating and cooling and gas-pack units with gas heating and electric cooling, compliance need only be demonstrated for either the space heating or space cooling system size.

2. Natural gas- or oil-fired space heating equipment whose total rated space heating output in any one dwelling unit is

a. 40,000 Btu/h or less is exempt from the sizing limit,

b. Larger than 40,000 Btu/h may exceed the two hundred (200%) percent sizing limit provided that the installed equipment has an annual fuel utilization efficiency (AFUE) of not less than ninety (90%) percent.

3. Stand-by equipment may be installed if controls and other devices are provided which allow redundant equipment to operate only when the primary equipment is not operating.

503.3 Simultaneous Heating and Cooling: Systems and equipment that provide simultaneous heating and cooling shall comply with the requirements in, as appropriate, Section 1422 or Section 1435.

503.4 HVAC Equipment Performance Requirements: All heating equipment shall meet the requirements of the 1987 National Appliance Energy Conservation Act (NAECA) and be so labeled. Equipment shall also comply with Section 1411.

503.5 Reserved.

503.6 Balancing: The HVAC system design shall provide a means for balancing air and water systems. Balancing the system shall include, but not be limited to, dampers, temperature and pressure test connections and balancing valves.

503.7 Cooling with Outdoor Air (Economizer Cycle): Systems and equipment that provide mechanical cooling shall comply with Section 1413 and, as appropriate, Section 1423 or 1433.

503.8 Controls:

503.8.1 Temperature Control: Each system shall be provided with at least one adjustable thermostat for the regulation of temperature. Each thermostat shall be capable of being set by adjustment or selection of sensors as follows:

503.8.1.1: When used to control heating only: Fifty-five degrees to seventy-five degrees F.

503.8.1.2: When used to control cooling only: Seventy degrees to eighty-five degrees F.

503.8.1.3: When used to control both heating and cooling, it shall be capable of being set from fifty-five degrees to eighty-five degrees F and shall be capable of operating the system heating and cooling in sequence. The thermostat and/or control system shall have an adjustable deadband of not less than ten degrees F.

503.8.2 Humidity Control: If a system is equipped with a means for adding moisture to maintain specific selected relative humidities in space or zones, a humidistat shall be provided. Humidistats shall be capable of being set to prevent new energy from being used to produce space-relative humidity above thirty percent.

EXCEPTION: Special uses requiring different relative humidities may be permitted when approved by the building official.

503.8.3 Zoning for Temperature Control:

503.8.3.1 One- and Two-Family Dwellings: At least one thermostat for regulation of space temperature shall be provided for each separate system. In addition, a readily accessible manual or automatic means shall be provided to partially restrict or shut off the heating and/or cooling input to each zone or floor.

503.8.3.2 Multifamily Dwellings: For multifamily dwellings, each individual dwelling unit shall have at least one thermostat for regulation of space temperature. A readily accessible manual or automatic means shall be provided to partially restrict or shut off the heating and/or cooling input to each room. Spaces other than living units shall meet the requirements of 503.8.3.3.

503.8.3.3 Reserved.

503.8.3.4 Control Setback and Shutoff:

Residential Occupancy Groups. One- and Two-Family and Multifamily dwellings—The thermostat required in section 503.8.3.1 or section 503.8.3.2, or an alternate means such as a switch or clock, shall provide a readily accessible, manual or automatic means for reducing the energy required for heating and cooling during the periods of nonuse or reduced need, such as, but not limited to unoccupied periods and sleeping hours. Lowering thermostat set points to reduce energy consumption of heating systems shall not cause energy to be expended to reach the reduced setting.

503.8.3.5 Heat Pump Controls: Programmable thermostats are required for all heat pump systems. The cut-on temperature for the compression heating shall be higher than the cut-on temperature for the supplementary heat, and the cut-off temperature for the compression heating shall be higher than the cut-off temperature for the supplementary heat. Heat pump thermostats will be capable of providing at least two programmable setback periods per day. The automatic setback thermostat shall have the capability of limiting the use of supplemental heat during the warm-up period.

503.9 Air Handling Duct System Insulation: Ducts, plenums and enclosures installed in or on buildings shall be thermally insulated per Table 5-11.

EXCEPTIONS: Duct insulation (except where required to prevent condensation) is not required in any of the following cases:
1. When the heat gain or loss of the ducts, without insulation, will not increase the energy requirements of the building.
2. Within the HVAC equipment.

3. Exhaust air ducts.

4. Supply or return air ducts installed in unvented crawl spaces with insulated walls, basements, or cellars in one- and two-family dwellings.

503.10 Ducts.

503.10.1 Leakage Testing: High-pressure and medium-pressure ducts shall be leak tested in accordance with the 1985 Edition of the SMACNA HVAC Air Duct Leakage Test Manual with the rate of air leakage not to exceed the maximum rate specified in that standard.

503.10.2 Seams and Joints: All low-pressure supply and return duct transverse joints, and enclosed stud bays or joist cavities/space used to transport air, shall be securely fastened and sealed with welds, gaskets, mastics (adhesives), or mastic-plus-embedded-fabric systems installed in accordance with the manufacturer's installation instructions.

EXCEPTIONS: 1. Ducts or building cavities used for air distribution that are located entirely within the conditioned space of the building are exempt from this section.

2. UL 181A listed tapes used with listed rigid fibrous glass ducts may be used as the primary sealant, when installed in accordance with the listing.

3. UL 181B listed tapes used with listed flexible air ducts may be used as the primary sealant, when installed in accordance with the listing.

4. Where enclosed stud bays or joist cavities/spaces are used to transport air sealing may be accomplished using drywall, drywall tape plus joint compound.

5. Tapes installed in accordance with the manufacturer's installation instructions, providing detailed information specific to application on ducts, including approved duct materials and required duct surface cleaning.

503.10.3 Dampers: Requirements for Automatic or manual dampers are found in the Washington State Ventilation and Indoor Air Quality Code.

503.11 Pipe Insulation: All piping shall be thermally insulated in accordance with Table 5-12.

EXCEPTION: Piping installed within unitary HVAC equipment.

Cold water pipes outside the conditioned space shall be insulated in accordance with the Washington State Plumbing Code (chapter 51-56 WAC).

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-0503, filed 12/17/03, effective 7/1/04; 02-24-076, § 51-11-0503, filed 12/4/02, effective 5/1/03. Statutory Authority: RCW 19.27A.025, 19.27A.045. 02-01-112, § 51-11-0503, filed 12/18/01, effective 7/1/02; 01-03-010, § 51-11-0503, filed 1/5/01, effective 7/1/01. Statutory Authority: RCW 19.27A.020, 19.27A.045, and 19.27.020. 98-24-075, § 51-11-0503, filed 12/1/98, effective 7/1/99. Statutory Authority: RCW 19.27A.025 and 19.27A.045. 98-03-003, § 51-11-0503, filed 1/8/98, effective 7/1/98. Statutory Authority: RCW 19.27A.025. 93-21-052, § 51-11-0503, filed 10/18/93, effective 4/1/94. Statutory Authority: Chapter 19.27A RCW. 92-01-140, § 51-11-0503, filed 12/19/91, effective 7/1/92. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-0503, filed 12/19/90, effective 7/1/91.]

WAC 51-11-0504 Service water heating.

504.1 Scope: The purpose of this section is to provide criteria for design and equipment selection that will produce energy savings when applied to service water heating.

504.2 Water Heaters, Storage Tanks and Boilers:

504.2.1 Performance Efficiency: All Storage water heaters shall meet the requirements of the 1987 National Appliance Energy Conservation Act and be so labeled. All electric water heaters in unheated spaces or on concrete floors shall be placed on an incompressible, insulated surface with a minimum thermal resistance of R-10.

For combination space and service water heaters with a principal function of providing space heat, the Combined Annual Efficiency (CAE) may be calculated by using ASHRAE Standard 124-1991. Storage water heaters used in combination space heat and water heat applications shall have either an Energy Factor (EF) or a Combined Annual Efficiency (CAE) of not less than the following:

	Energy Factor (EF)	Combined Annual Efficiency (CAE)
<50 gallon storage	0.58	0.71
50 to 70 gallon storage	0.57	0.71
>70 gallon storage	0.55	0.70

504.2.2 Insulation: Heat loss from unfired hot-water storage tanks shall be limited to a maximum of 9.6 Btu/hr/ft^2 of external tank surface area. The design ambient temperature shall be no higher than sixty-five degrees F.

504.2.3 Combination Service Water Heating/Space Heating Boilers: Service water heating equipment shall not be dependent on year round operation of space heating boilers.

EXCEPTIONS: 1. Systems with service/space heating boilers having a standby loss Btu/h less than:

$$(13.3\ pmd + 400)/n$$

determined by the fixture count method where:

pmd = probably maximum demand in gallons/hour as determined in accordance with Chapter 48 of Standard RS-11.

n = fraction of year when outdoor daily mean temperature exceeds 64.9° F.

The standby loss is to be determined for a test period of twenty-four-hour duration while maintaining a boiler water temperature of ninety degrees F above an ambient of sixty degrees F and a five foot stack on appliance.

2. For systems where the use of a single heating unit will lead to energy savings, such unit shall be utilized.

504.3 Automatic Controls: Service water heating systems shall be equipped with automatic temperature controls capable of adjustment from the lowest to the highest acceptable temperature settings for the intended use. Temperature setting range shall be set to one hundred twenty degrees F or forty-nine degrees C.

504.4 Shutdown: A separate switch shall be provided to permit turning off the energy supplied to electric service water heating systems. A separate valve shall be provided to permit turning off the energy supplied to the main burner(s) of all other types of service water heater systems.

504.5 Swimming Pools:

504.5.1: All pool heaters shall be equipped with readily accessible ON/OFF switch to allow shutting off the operation of the heater without adjusting the thermostat setting. Controls shall be provided to allow the water temperature to be regulated from the maximum design temperature down to sixty-five degrees F.

504.5.2 Pool Covers: Heated swimming pools shall be equipped with a pool cover, approved by the building official.

504.6 Pump Operation: Circulating hot water systems shall be controlled so that the circulation pump(s) can be conveniently turned off, automatically or manually, when the hot water system is not in operation.

504.7 Pipe Insulation: Piping shall be thermally insulated in accordance with section 503.11.

504.8 Conservation of Hot Water:

504.8.1 Showers and Lavatories: Showers and lavatories used for other than safety reasons shall be equipped with flow control devices or specially manufactured showerheads or aerators to limit the total water flow rate as set forth in chapter 51-56 WAC, as measured with both hot and cold faucets turned on to their maximum flow.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-0504, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-0504, filed 1/5/01, effective 7/1/01; 98-03-003, § 51-11-0504, filed 1/8/98, effective 7/1/98. Statutory Authority: Chapter 19.27A RCW. 92-01-140, § 51-11-0504, filed 12/19/91, effective 7/1/92. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-0504, filed 12/19/90, effective 7/1/91.]

WAC 51-11-0505 Lighting.

505.1 **Lighting Controls:** Hotel and motel guest rooms and guest suites shall have a master control device at the main room entry that controls all permanently installed luminaires and switched receptacles.

505.2 **Lighting Power:** Lighting shall comply with the Prescriptive Lighting Option in Section 1520 or the Lighting Power Allowance Option in Section 1530.

EXCEPTIONS: 1. Group R-3 and R-4 Occupancy and the dwelling unit portions of Group R-1 and R-2 Occupancy.
2. Lighting exempted by Section 1512.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-0505, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-0505, filed 1/5/01, effective 7/1/01. Statutory Authority: RCW 19.27A.025. 93-21-052, § 51-11-0505, filed 10/18/93, effective 4/1/94. Statutory Authority: Chapter 19.27A RCW. 92-01-140, § 51-11-0505, filed 12/19/91, effective 7/1/92. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-0505, filed 12/19/90, effective 7/1/91.]

WAC 51-11-0601 Scope.

601.1 General: This chapter establishes design criteria in terms of prescribed requirements for building construction.

The provisions of this chapter are applicable to all Group R Occupancies. Occupancies shall comply with all the requirements of Chapter 5 except for the modifications herein specified.

For wood frame assemblies, the building envelope requirements of this chapter may be met by installing one of the prescriptive packages in Table 6-1 or 6-2. Installed components shall meet the requirements of section 602. Compliance with nominal R-Values shall be demonstrated for the thermal resistance of the added insulation in framing cavities and/or insulated sheathing only and shall not include the thermal transmittance of other building materials or air films, but shall permit interruption by occasional framing members. Other than wood frame assemblies with continuous insulation uninterrupted by framing shall also be allowed to comply with nominal R-values.

For metal frame assemblies, compliance shall be demonstrated in accordance with Chapter 4 or Chapter 5 based on the assemblies in Chapter 10. Compliance with nominal R-values is not allowed, unless the full nominal R-value of the insulation is installed either inside or outside of the framing and is uninterrupted by framing.

EXCEPTION: Group R-1 and R-2 Occupancy buildings may use a maximum area weighted average U-factor for components not exceeding those prescribed in Paths III and V in Table 6-1 or Paths IV and VI in Table 6-2.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-0601, filed 12/17/03, effective 7/1/04; 02-24-076, § 51-11-0601, filed 12/4/02, effective 5/1/03. Statutory Authority: RCW 19.27A.025, 19.27A.045. 02-01-112, § 51-11-0601, filed 12/18/01, effective 7/1/02; 01-03-010, § 51-11-0601, filed 1/5/01, effective 7/1/01. Statutory Authority: Chapters 19.27, 19.27A and 34.05 RCW. 94-05-059, § 51-11-0601, filed 2/10/94, effective 4/1/94. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-0601, filed 12/19/90, effective 7/1/91.]

WAC 51-11-0625 Table 6-1.

TABLE 6-1
PRESCRIPTIVE REQUIREMENTS[0,1] FOR GROUP R OCCUPANCY CLIMATE ZONE 1

Option	Glazing Area[10]: % of Floor	Glazing U-Factor: Vertical	Glazing U-Factor: Overhead[11]	Door[9] U-Factor	Ceiling[2]	Vaulted Ceiling[3]	Wall[12] Above Grade	Wall• int[4] Below Grade	Wall• ext[4] Below Grade	Floor[5]	Slab[6] on Grade
I.	12%	0.35	0.58	0.20	R-38	R-30	R-15	R-15	R-10	R-30	R-10
II.*	15%	0.40	0.58	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
III.	25% Group R-1 and R-2 Occupancy only	0.40	0.58	0.20	R-38/ U = 0.031	R-30/ U = 0.034	R-21/ U = 0.060	R-15	R-10	R-30/ U = 0.029	R-10
IV.	Unlimited Group R-3 and R-4 Occupancy only	0.40	0.58	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
V.	Unlimited Group R-1 and R-2 Occupancy only	0.35	0.58	0.20	R-38/ U = 0.031	R-30/ U = 0.034	R-21/ U = 0.060	R-15	R-10	R-30/ U = 0.029	R-10

* Reference Case

TABLE 6-2
PRESCRIPTIVE REQUIREMENTS[0,1] FOR GROUP R OCCUPANCY CLIMATE ZONE 2

Option	Glazing Area[10]: % of Floor	Glazing U-Factor		Door[9] U-Factor	Ceiling[2]	Vaulted Ceiling[3]	Wall[12] Above Grade	Wall• int[4] Below Grade	Wall• ext[4] Below Grade	Floor[5]	Slab[6] on Grade
		Vertical	Overhead[11]								
I.	10%	0.40	0.58	0.20	R-38	R-30	R-21 Int[7]	R-21	R-12	R-30	R-10
II.*	15%	0.40	0.58	0.20	R-38	R-30	R-19 +R-5[8]	R-21	R-12	R-30	R-10
III.	17%	0.37	0.58	0.20	R-38	R-30	R-19 +R-5[8]	R-21	R-12	R-30	R-10
IV.	25% Group R-1 and R-2 Occupancy only	0.35	0.58	0.20	R-38/ U = 0.031	R-30/ U = 0.034	R-21 int[7]/ U = 0.054	R-15	R-12	R-30/ U = 0.029	R-10/ F = 0.54
V.	Unlimited Group R-3 and R-4 Occupancy only	0.35	0.58	0.20	R-38	R-30	R-21 Int[7]	R-21	R-12	R-30	R-10
VI.	Unlimited Group R-1 Occupancy only	0.32	0.58	0.20	R-38/ U = 0.031	R-30/ U = 0.034	R-21 int[7]/ U = 0.054	R-15	R-12	R-30/ U = 0.029	R-10/ F = 0.54

* Reference Case

0. Nominal R-values are for wood frame assemblies only or assemblies built in accordance with Section 601.1.
1. Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 13%, it shall comply with all of the requirements of the 15% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above may calculate compliance by Chapters 4 or 5 of this Code.
2. Requirement applies to all ceilings except single rafter or joist vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.
3. Requirement applicable only to single rafter or joist vaulted ceilings.
4. Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See Section 602.2.
5. Floors over crawl spaces or exposed to ambient air conditions.
6. Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See Section 602.4.
7. Int. denotes standard framing 16 inches on center with headers insulated with a minimum of R-10 insulation.
8. This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.
9. Doors, including all fire doors, shall be assigned default U-factors from Table 10-6C.
10. Where a maximum glazing area is listed, the total glazing area (combined vertical plus overhead) as a percent of gross conditioned floor area shall be less than or equal to that value. Overhead glazing with U-factor of U = 0.40 or less is not included in glazing area limitations.
11. Overhead glazing shall have U-factors determined in accordance with NFRC 100 or as specified in Section 502.1.5.
12. Log and solid timber walls with a minimum average thickness of 3.5" are exempt from this insulation requirement.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-0625, filed 12/17/03, effective 7/1/04; 02-24-076, § 51-11-0625, filed 12/4/02, effective 5/1/03. Statutory Authority: RCW 19.27A.025, 19.27A.045. 02-01-112, § 51-11-0625, filed 12/18/01, effective 7/1/02; 01-03-010, § 51-11-0625, filed 1/5/01, effective 7/1/01; 98-03-003, § 51-11-0625, filed 1/8/98, effective 7/1/98. Statutory Authority: Chapters 19.27 and 19.27A RCW and 1994 c 226. 95-01-126, § 51-11-0625, filed 12/21/94, effective 6/30/95. Statutory Authority: Chapters 19.27, 19.27A and 34.05 RCW. 94-05-059, § 51-11-0625, filed 2/10/94, effective 4/1/94. Statutory Authority: Chapter 19.27A RCW. 92-01-140, § 51-11-0625, filed 12/19/91, effective 7/1/92.]

WAC 51-11-0701 Scope. The following standards shall apply to Chapters 1 through 20. The standards and portions thereof, which are referred to in various parts of this Code shall be part of the Washington State Energy Code and are hereby declared to be a part of this Code.

REFERENCE STANDARD NO.	TITLE AND SOURCE
RS-1	2001 ASHRAE Fundamentals Handbook.
RS-2	Super Good Cents Technical Reference C Builder's Field Guide.
RS-3	(Reserved).
RS-4	ASHRAE Standard 55-92 Thermal Environmental Conditions for Human Occupancy.
RS-5	1998 ASHRAE Refrigeration Handbook.
RS-6	SMACNA, Installation Standards for Residential Heating and Air Conditioning Systems, 6th Edition, 1988.
RS-7	SMACNA, HVAC Duct Construction Standards, Metal and Flexible, 2nd Edition, 1995.
RS-8	SMACNA, Fibrous Glass Duct Construction Standards, 6th Edition, 1992.
RS-9	ASHRAE/IESNA Standard 90.1-2001, Energy Standard for Buildings Except Low-Rise Residential Buildings.
RS-10	2000 ASHRAE Systems and Equipment Handbook.
RS-11	1999 ASHRAE HVAC Systems and Applications Handbook.
RS-12	through RS-28 (Reserved).
RS-29	Nonresidential Building Design by Systems Analysis.
RS-30	Title 10, Code of Federal Regulations (CFR), Part 430 (March 14, 1988).
RS-31	National Fenestration Rating Council (NFRC) Standard 100-2001.

ACCREDITED AUTHORITATIVE AGENCIES

ANSI refers to the American National Standards Institute, Inc., 11 West 42nd Street, New York, NY 10036 Phone 212-642-4900 fax 212-398-0023, internet www.ansi.org

ARI refers to the Air Conditioning and Refrigeration Institute, 4301 N. Fairfax Dr., Suite 425, Arlington, VA 22203

Phone 703-524-8800 fax 703-528-3816, internet www.ari.org

ASHRAE refers to the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, GA 30329
Phone 404-636-8400 fax 404-321-5478, internet www.ashrae.org

ASTM refers to the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959
Phone 610-832-9585 fax 610-832-9555, internet www.astm.org

CTI refers to the Cooling Tower Institute, 530 Wells Fargo Drive, Suite 218, Houston, TX 77090
Phone 281-583-4087 fax 281-537-1721, internet www.cti.org

IESNA refers to the Illuminating Engineering Society of North America, 120 Wall Street, Floor 17, New York, NY 10005-4001
Phone 212-248-5000 fax 212-248-5017, internet www.iesna.org

NFRC refers to the National Fenestration Rating Council, Incorporated, 8484 Georgia Avenue, Suite 320, Silver Spring, Maryland 20910
Phone 301-589-1776 fax 301-588-0854, internet www.nfrc.org

SMACNA refers to the Sheet Metal and Air Conditioning Contractors National Association, Inc., 4201 Lafayette Center Drive, P.O. Box 221230, Chantilly, VA 20153-1230
Phone 703-803-2980 fax 703-803-3732, internet www.smacna.org

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-0701, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-0701, filed 1/5/01, effective 7/1/01; 98-03-003, § 51-11-0701, filed 1/8/98, effective 7/1/98. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-0701, filed 12/19/90, effective 7/1/91.]

WAC 51-11-0900 Section 0900—Prescriptive heating system sizing. When using the prescriptive approach in Chapter 6, if approved by the building official, design heat load calculations are not required to show compliance to this Code if the heating system installed is equal to or less than the following:

Climate Zone 1	20 Btu/h•ft^2
Climate Zone 2	25 Btu/h•ft^2

Example: A 2000 ft^2 house in Zone 2, heated with gas, would not have to submit a design heat load if the proposed furnace is 50,000 Btu or less.

2000 x 25 = 50,000

Disclaimer: All heating systems shall be designed and installed in accordance with International Building Code Section 1204.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-0900, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 02-01-112, § 51-11-0900, filed 12/18/01, effective 7/1/02. Statutory Authority: Chapters 19.27 and 19.27A RCW and 1994 c 226. 95-01-126, § 51-11-0900, filed 12/21/94, effective 6/30/95. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-0900, filed 12/19/90, effective 7/1/91.]

WAC 51-11-1001 Section 1001 General.

1001.1 Scope: The following defaults shall apply to Chapters 1 through 20. This chapter includes tables of seasonal average heat-loss coefficients for specified nominal insulation. The heat-loss coefficients may also be used for heating system sizing.

1001.2 Description: These coefficients were developed primarily from data and procedures from Standard RS-1, and taken specifically from Standard RS-2, listed in Chapter 7.

Coefficients not contained in this chapter may be computed using the procedures listed in these references if the assumptions in the following sections and Standard RS-2, listed in Chapter 7, are used, along with data from the sources referenced above.

1001.3 **Air Films:** Default R-values used for air films shall be as follows:

R-Value	Condition
0.17	All exterior surfaces
0.61	Interior horizontal surfaces, heat flow up
0.92	Interior horizontal surfaces, heat flow down
0.68	Interior vertical surfaces

1001.4 **Compression of Insulation:** Insulation which is compressed shall be rated in accordance with Table 10-A or reduction in value may be calculated in accordance with the procedures in Standard RS-1, listed in Chapter 7.

TABLE 10-A
R-Value of Fiberglass Batts Compressed within Various Depth Cavities

Insulation R-Value at Standard Thickness												
R-Value		**38**	**30**	**22**	**21**	**19**	**15**	**13**	**11**	**8**	**5**	**3**
Standard Thickness		**12"**	**9-1/2"**	**6-3/4"**	**5-1/2"**	**6-1/4"**	**3-1/2"**	**3-5/8"**	**3-1/2"**	**2-1/2"**	**1-1/2"**	**3/4"**
Nominal Lumber Sizes, Inches	Actual Depth of Cavity, Inches	Insulation R-Values when Installed in a Confined Cavity										
2 x 12	11-1/4	37	—	—	—	—	—	—	—	—	—	—
2 x 10	9-1/4	32	30	—	—	—	—	—	—	—	—	—
2 x 8	7-1/4	27	26	—	—	—	—	—	—	—	—	—
2 x 6	5-1/2	—	21	20	21	18	—	—	—	—	—	—
2 x 4	3-1/2	—	—	14	—	13	15	13	11	—	—	—
2 x 3	2-1/2	—	—	—	—	—	—	9.8	—	—	—	—
2 x 2	1-1/2	—	—	—	—	—	—	6.3	6.0	5.7	5.0	—
2 x 1	3/4	—	—	—	—	—	—	—	—	—	3.2	3.0

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-1001, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-1001, filed 1/5/01, effective 7/1/01. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-1001, filed 12/19/90, effective 7/1/91.]

WAC 51-11-1004 Section 1004: Floors over unconditioned space.

1004.1 General: Tables 10-3, 10-4 and 10-4a list heat-loss coefficients for floors over unconditioned spaces in units of Btu/h•ft²•°F.

They are derived from procedures listed in RS-1, listed in Chapter 7, assuming an average outdoor temperature of 45°F, an average indoor temperature of 65°F, and a crawlspace area of 1350 ft² and 100 ft of perimeter. The crawlspace is assumed to be 2.5 feet high, with 24 inches below grade and 6 inches above grade.

1004.2 Crawlspace Description: Four configurations are considered: Vented crawlspace, unvented crawlspace, heated plenum crawlspace and exposed floor.

Vented crawlspaces: Assumed to have 3.0 air-changes per hour, with at least 1.0 ft² of net-free ventilation in the foundation for every three hundred ft² of crawlspace floor area. The crawlspace is not actively heated.

Floors over unheated areas, such as garages, may only use those values which have R-0 perimeter insulation.

Unvented crawlspaces: Assumed to have 1.5 air changes per hour, with less than 1.0 ft² of net-free ventilation in the foundation for every three hundred ft² of crawlspace floor area. The crawlspace is not actively heated. Floors over unheated basements may only use those values which have R-0 perimeter insulation.

Heated-plenum crawlspaces: Assumed to have 0.25 air-changes per hour, with no foundation vents. Heated supply air from central furnace is blown into a crawlspace and allowed to enter the living space unducted via holes cut into the floor.

Enclosed floors: Assumes no buffer space, and a covering of one-half inch of T1-11 on the exterior of the cavity exposed to the outside air or rigid insulation below a concrete floor, such as over parking garages.

1004.3 Construction Description: Floors are assumed to be either joisted floors framed on sixteen inch centers, or post and beam on four by eight foot squares. Insulation is assumed to be installed under the subflooring between the joists or beams with no space between the insulation and the subfloor. Insulation is assumed to be uncompressed. Exposed floors also include concrete with continuous rigid insulation assumed.

Perimeter insulation is assumed to extend from the top of the rim joist to the crawlspace floor and then inward along the ground (on top of the ground cover) for at least twenty-four inches.

Floor coverings are assumed to be light carpet with rubber pad.

TABLE 10-3
DEFAULT U-FACTORS FOR FLOORS OVER VENTED CRAWLSPACE OR UNHEATED BASEMENT

Nominal R-value		U-factor	
Floor	Perimeter	Post & Beam	Joists
0	0	0.112	0.134
	11	0.100	0.116
	19	0.098	0.114
	30	0.093	0.107
11	0	0.052	0.056
	11	0.048	0.052
19	0	0.038	0.041
	11	0.036	0.038
22	0	0.034	0.037
	11	0.033	0.035
25	0	0.032	0.034
	11	0.031	0.033
30	0	0.028	0.029
	11	0.027	0.028
38	0	0.024	0.025
	11	0.024	0.024

TABLE 10-4
DEFAULT U-FACTORS FOR FLOORS OVER HEATED PLENUM CRAWLSPACES

Nominal R-value Perimeter	U-factor
11	0.085
19	0.075
30	0.069

TABLE 10-4A
EXPOSED FLOOR

Nominal R-value	U-factor		
	Concrete	Wood Joist	Metal Joist
R-11	0.077	0.088	0.14
R-15	0.059	0.076	0.12
R-19	0.048	0.062	0.11
R-21	0.043	0.057	0.11
R-25	0.037	0.051	0.10
R-30	0.031	0.040	0.09
R-38	0.025	0.034	0.08

Note: Crawlspaces used as heated plenums have approximately 30% higher heat-loss rate than unvented crawlspaces with the same assumed ACH. Default U-values in Table 10-4 reflect this higher rate of heat loss.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-1004, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-1004, filed 1/5/01, effective 7/1/01; 98-03-003, § 51-11-1004, filed 1/8/98, effective 7/1/98. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-1004, filed 12/19/90, effective 7/1/91.]

WAC 51-11-1005 Section 1005: Above-grade walls.

Section 1005.1 General: Table 10-5, 10-5A and 10-5B list heat-loss coefficients for the opaque portion of above-grade wood stud frame walls, metal stud frame walls and concrete masonry walls (Btu/h•ft²•°F) respectively. They are derived from procedures listed in RS-1, listed in Chapter 7.

For intermediate floor slabs which penetrate the insulated wall, use the concrete wall U-factors in Table 10-5B.

Insulation is assumed to uniformly fill the entire cavity and to be installed as per manufacturer's directions. All walls are assumed to be finished on the inside with one-half inch gypsum wallboard, and on the outside with either beveled wood siding over one-half inch plywood sheathing or with five-eighths inch T1-11 siding. Insulated sheathing (either interior or exterior) is assumed to cover the entire opaque wall surface.

1005.2 Framing Description: For wood stud frame walls, three framing types are considered, and defined as follows:

Standard: Studs framed on sixteen inch centers with double top plate and single bottom plate. Corners use three studs and each opening is framed using two studs. Headers consist of double 2X or single 4X material with an air space left between the header and the exterior sheathing. Interior partition wall/exterior wall intersections use two studs in the exterior wall.

Framing weighting factors:	Studs and plates	.19
	Insulated cavity	.77
	Headers	.04

Intermediate: Studs framed on sixteen inch centers with double top plate and single bottom plate. Corners use two studs or other means of fully insulating corners, and each opening is framed by two studs. Headers consist of double 2X material with R-10 insulation between the header and exterior sheathing. Interior partition wall/exterior wall intersections are fully insulated in the exterior wall.

Framing weighting factors:	Studs and plates	.18
	Insulated cavity	.78
	Headers	.04

Advanced: Studs framed on twenty-four inch centers with double top plate and single bottom plate. Corners use two studs or other means of fully insulating corners, and one stud is used to support each header. Headers consist of double 2X material with R-10 insulation between the header and exterior sheathing. Interior partition wall/exterior wall intersections are fully insulated in the exterior wall.

Framing weighting factors:	Studs and plates	.13
	Insulated cavity	.83
	Headers	.04

1005.3 Component Description: Default coefficients for four types of walls are listed: single-stud walls, metal stud walls, strap walls, and double-stud walls.

Single-Stud Wall: Assumes either 2x4 or 2x6 studs framed on sixteen or twenty-four inch centers. Headers are solid for 2x4 walls and double 2x for 2x6 walls, with either dead-air or rigid-board insulation in the remaining space.

Metal Stud Wall: Assumes metal studs spaced on 16 or 24 inch centers with insulation installed to fill wall cavities. Continuous rigid board insulation is applied without creating uninsulated voids in the wall assembly.

Strap Wall: Assumes 2x6 studs framed on sixteen or twenty-four inch centers. 2x3 or 2x4 strapping is run horizontally along the interior surface of the wall to provide additional space for insulation.

Double-Stud Wall: Assumes an exterior structural wall and a separate interior, nonstructural wall. Insulation is placed in both wall cavities and in the space between the 2 walls. Stud spacing is assumed to be on 24 inch centers for both walls.

TABLE 10-5
DEFAULT U-FACTORS FOR ABOVE-GRADE WALLS

2 x 4 Single Wood Stud: R-11 Batt

NOTE:
Nominal Batt R-value:
R-11 at 3.5 inch thickness

Installed Batt R-value:
R-11 in 3.5 inch cavity

Siding Material/Framing Type				
	Lapped Wood		**T1-11**	
R-value of Foam Board	**STD**	**ADV**	**STD**	**ADV**
0	0.088	0.084	0.094	0.090
1	0.080	0.077	0.085	0.082
2	0.074	0.071	0.078	0.075
3	0.069	0.066	0.072	0.070
4	0.064	0.062	0.067	0.065
5	0.060	0.058	0.063	0.061
6	0.056	0.055	0.059	0.057
7	0.053	0.052	0.055	0.054
8	0.051	0.049	0.052	0.051
9	0.048	0.047	0.050	0.049
10	0.046	0.045	0.047	0.046
11	0.044	0.043	0.045	0.044
12	0.042	0.041	0.043	0.042

2 x 4 Single Wood Stud: R-13 Batt

NOTE:
Nominal Batt R-value:
R-13 at 3.63 inch thickness

Installed Batt R-value:
R-12.7 in 3.5 inch cavity

Siding Material/Framing Type				
	Lapped Wood		T1-11	
R-value of Foam Board	STD	ADV	STD	ADV
0	0.082	0.078	0.088	0.083
1	0.075	0.072	0.080	0.076
2	0.069	0.066	0.073	0.070
3	0.065	0.062	0.068	0.065
4	0.060	0.058	0.063	0.061
5	0.057	0.055	0.059	0.057
6	0.053	0.052	0.056	0.054
7	0.051	0.049	0.052	0.051
8	0.048	0.047	0.050	0.048
9	0.046	0.045	0.047	0.046
10	0.044	0.043	0.045	0.044
11	0.042	0.041	0.043	0.042
12	0.040	0.039	0.041	0.040

2 x 4 Single Wood Stud: R-15 Batt

NOTE:

Nominal Batt R-value:
R-15 at 3.5 inch thickness

Installed Batt R-value:
R-15 in 3.5 inch cavity

Siding Material/Framing Type				
	Lapped Wood		T1-11	
R-value of Foam Board	STD	ADV	STD	ADV
0	0.076	0.071	0.081	0.075
1	0.069	0.065	0.073	0.069
2	0.064	0.061	0.068	0.069
3	0.060	0.057	0.063	0.059
4	0.056	0.053	0.059	0.056
5	0.053	0.051	0.055	0.052
6	0.050	0.048	0.052	0.050
7	0.047	0.046	0.049	0.047
8	0.045	0.044	0.047	0.045
9	0.043	0.042	0.044	0.043
10	0.041	0.040	0.042	0.041
11	0.039	0.038	0.041	0.039
12	0.038	0.037	0.039	0.038

2 x 6 Single Wood Stud: R-19 Batt

NOTE:

Nominal Batt R-value:
R-19 at 6 inch thickness

Installed Batt R-value:
R-18 in 5.5 inch cavity

Siding Material/Framing Type						
	Lapped Wood			T1-11		
R-value of Foam Board	STD	INT	ADV	STD	INT	ADV
0	0.062	0.058	0.055	0.065	0.061	0.058
1	0.058	0.055	0.052	0.060	0.057	0.055
2	0.054	0.052	0.050	0.056	0.054	0.051
3	0.051	0.049	0.047	0.053	0.051	0.049
4	0.048	0.046	0.045	0.050	0.048	0.046
5	0.046	0.044	0.043	0.048	0.046	0.044
6	0.044	0.042	0.041	0.045	0.044	0.042
7	0.042	0.040	0.039	0.043	0.042	0.040
8	0.040	0.039	0.038	0.041	0.040	0.039
9	0.038	0.037	0.035	0.039	0.038	0.037
10	0.037	0.036	0.035	0.038	0.037	0.036
11	0.036	0.035	0.034	0.036	0.035	0.035
12	0.034	0.033	0.033	0.035	0.034	0.033

2 x 6 Single Wood Stud: R-21 Batt

NOTE:

Nominal Batt R-value:
R-21 at 5.5 inch thickness

Installed Batt R-value:
R-21 in 5.5 inch cavity

Siding Material/Framing Type						
	Lapped Wood			T1-11		
R-value of Foam Board	STD	INT	ADV	STD	INT	ADV
0	0.057	0.054	0.051	0.060	0.056	0.053
1	0.054	0.051	0.048	0.056	0.053	0.050
2	0.050	0.048	0.045	0.052	0.050	0.047
3	0.048	0.045	0.043	0.049	0.047	0.045
4	0.045	0.043	0.041	0.047	0.045	0.043
5	0.043	0.041	0.040	0.044	0.042	0.041
6	0.041	0.039	0.038	0.042	0.041	0.039
7	0.039	0.038	0.036	0.040	0.039	0.037
8	0.038	0.036	0.035	0.039	0.037	0.036
9	0.036	0.035	0.034	0.037	0.036	0.035
10	0.035	0.034	0.033	0.036	0.035	0.033
11	0.033	0.033	0.032	0.034	0.033	0.032
12	0.032	0.031	0.031	0.033	0.032	0.031

2 x 6 Single Wood Stud: R-22 Batt

NOTE:

Nominal Batt R-value:
R-22 at 6.75 inch thickness

Installed Batt R-value:
R-20 in 5.5 inch cavity

Siding Material/Framing Type						
	Lapped Wood			T1-11		
R-value of Foam Board	STD	INT	ADV	STD	INT	ADV
0	0.059	0.055	0.052	0.062	0.058	0.054
1	0.055	0.052	0.049	0.057	0.054	0.051
2	0.052	0.049	0.047	0.054	0.051	0.048
3	0.049	0.046	0.044	0.050	0.048	0.046
4	0.046	0.044	0.042	0.048	0.046	0.044
5	0.044	0.042	0.041	0.045	0.043	0.042
6	0.042	0.040	0.039	0.043	0.042	0.040
7	0.040	0.039	0.037	0.041	0.040	0.038
8	0.038	0.037	0.036	0.039	0.038	0.037
9	0.037	0.036	0.035	0.038	0.037	0.035
10	0.035	0.034	0.033	0.036	0.035	0.034
11	0.034	0.033	0.032	0.035	0.034	0.033
12	0.033	0.032	0.031	0.034	0.033	0.032

2 x 6 Single Wood Stud: Two R-11 Batts

NOTE:
Nominal Batt R-value:
R-22 at 7 inch thickness

Installed Batt R-value:
R-18.9 in 5.5 inch cavity

Siding Material/Framing Type						
	Lapped Wood			T1-11		
R-value of Foam Board	STD	INT	ADV	STD	INT	ADV
0	0.060	0.057	0.054	0.063	0.059	0.056
1	0.056	0.053	0.051	0.059	0.056	0.053
2	0.053	0.050	0.048	0.055	0.052	0.050
3	0.050	0.048	0.046	0.052	0.049	0.047
4	0.047	0.045	0.044	0.049	0.047	0.045
5	0.045	0.043	0.042	0.046	0.045	0.043
6	0.043	0.041	0.040	0.044	0.043	0.041
7	0.041	0.040	0.038	0.042	0.041	0.039
8	0.039	0.038	0.037	0.040	0.039	0.038
9	0.038	0.037	0.036	0.039	0.038	0.036
10	0.036	0.035	0.034	0.037	0.036	0.035
11	0.035	0.034	0.033	0.036	0.035	0.034
12	0.034	0.033	0.032	0.034	0.034	0.033

2 x 8 Single Stud: R-25 Batt

NOTE:
Nominal Batt R-value:
R-25 at 8 inch thickness

Installed Batt R-value:
R-23.6 in 7.25 inch cavity

Siding Material/Framing Type						
	Lapped Wood			T1-11		
R-value of Foam Board	STD	INT	ADV	STD	INT	ADV
0	0.051	0.047	0.045	0.053	0.049	0.046
1	0.048	0.045	0.043	0.049	0.046	0.044
2	0.045	0.043	0.041	0.047	0.044	0.042
3	0.043	0.041	0.039	0.044	0.042	0.040
4	0.041	0.039	0.037	0.042	0.040	0.038
5	0.039	0.037	0.036	0.040	0.038	0.037
6	0.037	0.036	0.035	0.038	0.037	0.036
7	0.036	0.035	0.033	0.037	0.035	0.034
8	0.035	0.033	0.032	0.035	0.034	0.033
9	0.033	0.032	0.031	0.034	0.033	0.032
10	0.032	0.031	0.030	0.033	0.032	0.031
11	0.031	0.030	0.029	0.032	0.031	0.030
12	0.030	0.029	0.028	0.031	0.030	0.029

2 x 6: Strap Wall

	Siding Material/Frame Type			
	Lapped Wood		T1-11	
	STD	ADV	STD	ADV
R-19 + R-11 Batts	0.036	0.035	0.038	0.036
R-19 + R-8 Batts	0.041	0.039	0.042	0.040

2 x 6 + 2 x 4: Double Wood Stud

Batt Configuration			Siding Material/Frame Type			
			Lapped Wood		T1-11	
Exterior	Middle	Interior	STD	ADV	STD	ADV
R-19	———	R-11	0.040	0.037	0.041	0.038
R-19	———	R-19	0.034	0.031	0.035	0.032
R-19	R-8	R-11	0.029	0.028	0.031	0.029
R-19	R-11	R-11	0.027	0.026	0.028	0.027
R-19	R-11	R-19	0.024	0.023	0.025	0.023
R-19	R-19	R-19	0.021	0.020	0.021	0.020

2 x 4 + 2 x 4: Double Wood Stud

Batt Configuration			Siding Material/Frame Type			
			Lapped Wood		T1-11	
Exterior	Middle	Interior	STD	ADV	STD	ADV
R-11	———	R-11	0.050	0.046	0.052	0.048
R-19	———	R-11	0.039	0.037	0.043	0.039
R-11	R-8	R-11	0.037	0.035	0.036	0.036
R-11	R-11	R-11	0.032	0.031	0.033	0.032
R-13	R-13	R-13	0.029	0.028	0.029	0.028
R-11	R-19	R-11	0.026	0.026	0.027	0.026

Log Walls

NOTE:
R-value of wood:
R-1.25 per inch thickness

Average wall thickness
90% average log diameter

Average Log Diameter, Inches	U-factor
6	0.148
8	0.111
10	0.089
12	0.074
14	0.063
16	0.056

Stress Skin Panel

NOTE:
R-value of expanded polystyrene: R-3.85 per inch

Framing: 6%
Spline: 8%
No thermal bridging between interior and exterior splines

Panel Thickness, Inches	U-factor
3 1/2	0.071
5 1/2	0.048
7 1/4	0.037
9 1/4	0.030
11 1/4	0.025

Metal Stud Walls: The nominal R-values in Table 10-5A may be used for purposes of calculating metal stud wall section U-factors in lieu of the ASHRAE zone calculation method as provided in Chapter 25 of Standard RS-1.

TABLE 10-5A
Default U-factors for Overall Assembly Metal Stud Walls, Effective R-values for Metal Framing and Cavity Only, and Default Metal Building U-factors

OVERALL ASSEMBLY U-FACTORS FOR METAL STUD WALLS

Metal Framing	R-Value of Continuous Foam Board Insulation	Cavity Insulation					
		R-11	R-13	R-15	R-19	R-21	R-25
16" o.c.	R-0 (none)	U-0.14	U-0.13	U-0.12	U-0.10	U-0.097	U-0.091
	R-1	U-0.12	U-0.12	U-0.11	U-0.094	U-0.089	U-0.083
	R-2	U-0.11	U-0.010	U-0.099	U-0.086	U-0.081	U-0.077
	R-3	U-0.10	U-0.095	U-0.090	U-0.079	U-0.075	U-0.071
	R-4	U-0.091	U-0.087	U-0.082	U-0.073	U-0.070	U-0.067
	R-5	U-0.083	U-0.080	U-0.076	U-0.068	U-0.065	U-0.062
	R-6	U-0.077	U-0.074	U-0.071	U-0.064	U-0.061	U-0.059
	R-7	U-0.071	U-0.069	U-0.066	U-0.060	U-0.058	U-0.055
	R-8	U-0.067	U-0.064	U-0.062	U-0.057	U-0.055	U-0.053
	R-9	U-0.062	U-0.060	U-0.058	U-0.054	U-0.052	U-0.050
	R-10	U-0.059	U-0.057	U-0.055	U-0.051	U-0.049	U-0.048
24" o.c	R-0 (none)	U-0.13	U-0.12	U-0.11	U-0.091	U-0.085	U-0.079
	R-1	U-0.11	U-0.10	U-0.098	U-0.084	U-0.078	U-0.073
	R-2	U-0.10	U-0.091	U-0.089	U-0.077	U-0.073	U-0.068
	R-3	U-0.092	U-0.083	U-0.082	U-0.072	U-0.068	U-0.064
	R-4	U-0.084	U-0.077	U-0.076	U-0.067	U-0.063	U-0.060
	R-5	U-0.078	U-0.071	U-0.070	U-0.063	U-0.060	U-0.057
	R-6	U-0.072	U-0.067	U-0.066	U-0.059	U-0.056	U-0.054
	R-7	U-0.067	U-0.063	U-0.062	U-0.056	U-0.053	U-0.051
	R-8	U-0.063	U-0.059	U-0.058	U-0.053	U-0.051	U-0.048
	R-9	U-0.059	U-0.056	U-0.055	U-0.050	U-0.048	U-0.046
	R-10	U-0.056	U-0.053	U-0.052	U-0.048	U-0.046	U-0.044

EFFECTIVE R-VALUES FOR METAL FRAMING AND CAVITY ONLY

	Cavity		**Insulation**		
	Nominal Depth, Inches	**Actual Depth, Inches**	**Nominal R-Value**	**Effective R-Value**	
				16" O.C.	**24" O.C.**
Air Cavity	any	any	R-0.91 (air)	0.79	0.91
Wall	4	3-1/2	R-11	5.5	6.6
	4	3-1/2	R-13	6.0	7.2
	4	3-1/2	R-15	6.4	7.8
	6	5-1/2	R-19	7.1	8.6
	6	5-1/2	R-21	7.4	9.0
	8	7-1/4	R-25	7.8	9.6
Roof		Insulation is uncompressed	R-11	5.5	6.1
			R-19	7.0	9.1
			R-30	9.3	11.4

DEFAULT METAL BUILDING U-FACTORS

	R-10	R-11	R-13	R-19	R-24	R-30
Faced fiber glass blanket insulation rolled over and perpendicular to structural frame. Metal covering sheets fastened to the frame, holding insulation in place.	0.133	0.127	0.114	0.091	na	na
Faced fiber glass batt insulation suspended between structural frame. Metal covering sheets fastened directly to frame.	0.131	0.123	0.107	0.079	0.065	0.057
Faced fiber glass blanket insulation rolled over and perpendicular to structural frame. Rigid insulation blocks placed over insulation to align with structural frame.	0.102	0.096	0.084	0.065	na	na

	R-10	R-11	R-13	R-19	R-24	R-30
Faced fiber glass batt insulation suspended between structural frame. Rigid insulation blocks placed over insulation to align with structural frame.	0.099	0.093	0.080	0.059	0.048	0.041

Concrete Masonry Walls: The nominal R-values in Table 10-5B may be used for purposes of calculating concrete masonry wall section U-factors in lieu of the ASHRAE isothermal planes calculation method as provided in Chapter 25 of Standard RS-1.

TABLE 10-5B
Default U-Factors for Concrete and Masonry Walls

8" CONCRETE MASONRY				
	CORE TREATMENT			
	Partial Grout with Ungrouted Cores			
		Loose-fill insulated		
WALL DESCRIPTION	Empty	Perlite	Vermiculite	Solid Grout
Exposed Block, Both Sides	0.40	0.23	0.24	0.43
R-5 Interior Insulation, Wood Furring	0.14	0.11	0.12	0.15
R-6 Interior Insulation, Wood Furring	0.14	0.11	0.11	0.14
R-10.5 Interior Insulation, Wood Furring	0.11	0.09	0.09	0.11
R-8 Interior Insulation, Metal Clips	0.11	0.09	0.09	0.11
R-6 Exterior Insulation	0.12	0.10	0.10	0.12
R-10 Exterior Insulation	0.08	0.07	0.07	0.08
R-9.5 Rigid Polystyrene Integral Insulation, Two Webbed Block	0.11	0.09	0.09	0.12

12" CONCRETE MASONRY				
	CORE TREATMENT			
	Partial Grout with Ungrouted Cores			
		Loose-fill insulated		
	Empty	Perlite	Vermiculite	Solid Grout
Exposed Block, Both Sides	0.35	0.17	0.18	0.33
R-5 Interior Insulation, Wood Furring	0.14	0.10	0.10	0.13
R-6 Interior Insulation, Wood Furring	0.13	0.09	0.10	0.13
R-10.5 Interior Insulation, Wood Furring	0.11	0.08	0.08	0.10
R-8 Interior Insulation, Metal Clips	0.10	0.08	0.08	0.09
R-6 Exterior Insulation	0.11	0.09	0.09	0.11
R-10 Exterior Insulation	0.08	0.06	0.06	0.08
R-9.5 Rigid Polystyrene Integral Insulation, Two Webbed Block	0.11	0.08	0.09	0.12

8" CLAY BRICK				
	CORE TREATMENT			
	Partial Grout with Ungrouted Cores			
		Loose-fill insulated		
WALL DESCRIPTION	Empty	Perlite	Vermiculite	Solid Grout
Exposed Block, Both Sides	0.50	0.31	0.32	0.56
R-5 Interior Insulation, Wood Furring	0.15	0.13	0.13	0.16
R-6 Interior Insulation, Wood Furring	0.15	0.12	0.12	0.15
R-10.5 Interior Insulation, Wood Furring	0.12	0.10	0.10	0.12
R-8 Interior Insulation, Metal Clips	0.11	0.10	0.10	0.11
R-6 Exterior Insulation	0.12	0.11	0.11	0.13
R-10 Exterior Insulation	0.08	0.08	0.08	0.09

6" CONCRETE POURED OR PRECAST				
	CORE TREATMENT			
	Partial Grout with Ungrouted Cores			
		Loose-fill insulated		
WALL DESCRIPTION	Empty	Perlite	Vermiculite	Solid Grout
Exposed Concrete, Both Sides	NA	NA	NA	0.61
R-5 Interior Insulation, Wood Furring	NA	NA	NA	0.16
R-6 Interior Insulation, Wood Furring	NA	NA	NA	0.15
R-10.5 Interior Insulation, Wood Furring	NA	NA	NA	0.12

6" CONCRETE POURED OR PRECAST				
	CORE TREATMENT			
	Partial Grout with Ungrouted Cores			
		Loose-fill insulated		
WALL DESCRIPTION	Empty	Perlite	Vermiculite	Solid Grout
R-8 Interior Insulation, Metal Clips	NA	NA	NA	0.12
R-6 Exterior Insulation	NA	NA	NA	0.13
R-10 Exterior Insulation	NA	NA	NA	0.09

Notes for Default Table 10-5B

1. Grouted cores at 40" x 48" on center vertically and horizontally in partial grouted walls.
2. Interior insulation values include 1/2" gypsum board on the inner surface.
3. Furring and stud spacing is 16" on center. Insulation is assumed to fill furring space and is not compressed.
4. Intermediate values may be interpolated using this table. Values not contained in this table may be computed using the procedures listed in Standard RS-1.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-1005, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-1005, filed 1/5/01, effective 7/1/01; 98-03-003, § 51-11-1005, filed 1/8/98, effective 7/1/98. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-1005, filed 12/19/90, effective 7/1/91.]

WAC 51-11-1007 Section 1007 Ceilings.

1007.1 General: Table 10-7 lists heat-loss coefficients for the opaque portion of exterior ceilings below vented attics, vaulted ceilings, and roof decks in units of Btu/h•ft²•°F of ceiling.

They are derived from procedures listed in Standard RS-1, listed in Chapter 7. Ceiling U-factors are modified for the buffering effect of the attic, assuming an indoor temperature of 65° F and an outdoor temperature of 45°F.

Metal Framed Ceilings: The nominal R-values in Table 10-5A - EFFECTIVE R-VALUES FOR METAL FRAMING AND CAVITY ONLY may be used for purposes of calculating metal framed ceiling section U-factors in lieu of the ASHRAE zone calculation method as provided in Chapter 25 of Standard RS-1.

1007.2 Component Description: The four types of ceilings are characterized as follows:

Ceilings Below a Vented Attic: Attic insulation is assumed to be blown-in, loose-fill fiberglass with a K-value of 2.6 hr•ft²•°F/Btu per inch. Full bag count for specified R-value is assumed in all cases. Ceiling dimensions for flat ceiling calculations are forty-five by thirty feet, with a gabled roof having a 4/12 pitch. The attic is assumed to vent naturally at the rate of three air changes per hour through soffit and ridge vents. A void fraction of 0.002 is assumed for all attics with insulation baffles. Standard-framed, unbaffled attics assume a void fraction of 0.008.

Attic framing is either standard or advanced. Standard framing assumes tapering of insulation depth around the perimeter with resultant decrease in thermal resistance. An increased R-value is assumed in the center of the ceiling due to the effect of piling leftover insulation. Advanced framing assumes full and even depth of insulation extending to the outside edge of exterior walls. Advanced framing does not change from the default value.

U-factors for flat ceilings below vented attics with standard framing may be modified with the following table:

	U-Factor for Standard Framing	
Roof Pitch	R-30	R-38
4/12	.036	.031
5/12	.035	.030
6/12	.034	.029
7/12	.034	.029
8/12	.034	.028
9/12	.034	.028
10/12	.033	.028
11/12	.033	.027
12/12	.033	.027

Vented scissors truss attics assume a ceiling pitch of 2/12 with a roof pitch of either 4/12 or 5/12. Unbaffled standard framed scissors truss attics are assumed to have a void fraction of 0.016.

Vaulted Ceilings: Insulation is assumed to be fiberglass batts installed in roof joist cavities. In the vented case, at least 1.5-inches between the top of the batts and the underside of the roof sheathing is left open for ventilation in each cavity. A ventilation rate of 3.0 air changes per hour is assumed. In the unvented or dense pack case, the ceiling cavity is assumed to be fully packed with insulation, leaving no space for ventilation.

Roof Decks: Rigid insulation is applied to the top of roof decking with no space left for ventilation. Roofing materials are attached directly on top of the insulation. Framing members are often left exposed on the interior side.

Metal Truss Framing: Overall system tested values for the roof/ceiling U_o for metal framed truss assemblies from approved laboratories shall be used, when such data is acceptable to the building official.

Alternatively, the U_o for roof/ceiling assemblies using metal truss framing may be obtained from Tables 10-7A, 10-7B, 10-7C, 10-7D and 10-7E.

TABLE 10-7
DEFAULT U-FACTORS FOR CEILINGS

Ceilings Below Vented Attics

	Standard Frame	**Advanced Frame**
Flat Ceiling	**Baffled**	
R-19	0.049	0.047
R-30	0.036	0.032

	Standard Frame	Advanced Frame
R-38	0.031	0.026
R-49	0.027	0.020
R-60	0.025	0.017
Scissors Truss		
R-30 (4/12 roof pitch)	0.043	0.031
R-38 (4/12 roof pitch)	0.040	0.025
R-49 (4/12 roof pitch)	0.038	0.020
R-30 (5/12 roof pitch)	0.039	0.032
R-38 (5/12 roof pitch)	0.035	0.026
R-49 (5/12 roof pitch)	0.032	0.020
Vaulted Ceilings		
	16" O.C.	**24" O.C.**
Vented		
R-19 2x10 joist	0.049	0.048
R-30 2x12 joist	0.034	0.033
R-38 2x14 joist	0.027	0.027
Unvented		
R-30 2x10 joist	0.034	0.033
R-38 2x12 joist	0.029	0.027
R-21 + R-21 2x12 joist	0.026	0.025
Roof Deck		
	4x Beams, 48" O.C.	
R-12.5 2" Rigid insulation	0.064	
R-21.9 3.5" Rigid insulation	0.040	
R-37.5 6" Rigid insulation	0.025	
R-50 8" Rigid insulation	0.019	

Table 10-7A
Steel Truss[1] Framed Ceiling U_O

Cavity R-value	Truss Span (ft)												
	12	14	16	18	20	22	24	26	28	30	32	34	36
19	0.1075	0.0991	0.0928	0.0878	0.0839	0.0807	0.0780	0.0757	0.0737	0.0720	0.0706	0.0693	0.0681
30	0.0907	0.0823	0.0760	0.0710	0.0671	0.0638	0.0612	0.0589	0.0569	0.0552	0.0538	0.0525	0.0513
38	0.0844	0.0759	0.0696	0.0647	0.0607	0.0575	0.0548	0.0525	0.0506	0.0489	0.0474	0.0461	0.0449
49	0.0789	0.0704	0.0641	0.0592	0.0552	0.0520	0.0493	0.0470	0.0451	0.0434	0.0419	0.0406	0.0395

Table 10-7B
Steel Truss[1] Framed Ceiling U_O with R-3 Sheathing[2]

Cavity R-value	Truss Span (ft)												
	12	14	16	18	20	22	24	26	28	30	32	34	36
19	0.0809	0.0763	0.0728	0.0701	0.0679	0.0661	0.0647	0.0634	0.0623	0.0614	0.0606	0.0599	0.0592
30	0.0641	0.0595	0.0560	0.0533	0.0511	0.0493	0.0478	0.0466	0.0455	0.0446	0.0438	0.0431	0.0424
38	0.0577	0.0531	0.0496	0.0469	0.0447	0.0430	0.0415	0.0402	0.0392	0.0382	0.0374	0.0367	0.0361
49	0.0523	0.0476	0.0441	0.0414	0.0393	0.0375	0.0360	0.0348	0.0337	0.0328	0.0319	0.0312	0.0306

Table 10-7C
Steel Truss[1] Framed Ceiling U_O with R-5 Sheathing[2]

Cavity R-value	Truss Span (ft)												
	12	14	16	18	20	22	24	26	28	30	32	34	36
19	0.0732	0.0697	0.0670	0.0649	0.0633	0.0619	0.0608	0.0598	0.0590	0.0583	0.0577	0.0571	0.0567
30	0.0564	0.0529	0.0502	0.0481	0.0465	0.0451	0.0440	0.0430	0.0422	0.0415	0.0409	0.0403	0.0399
38	0.0501	0.0465	0.0438	0.0418	0.0401	0.0388	0.0376	0.0367	0.0359	0.0351	0.0345	0.0340	0.0335
49	0.0446	0.0410	0.0384	0.0363	0.0346	0.0333	0.0322	0.0312	0.0304	0.0297	0.0291	0.0285	0.0280

Table 10-7D
Steel Truss[1] Framed Ceiling U_O with R-10 Sheathing[2]

Cavity R-value	Truss Span (ft)												
	12	14	16	18	20	22	24	26	28	30	32	34	36
19	0.0626	0.0606	0.0590	0.0578	0.0569	0.0561	0.0555	0.0549	0.0545	0.0541	0.0537	0.0534	0.0531
30	0.0458	0.0437	0.0422	0.0410	0.0401	0.0393	0.0387	0.0381	0.0377	0.0373	0.0369	0.0366	0.0363
38	0.0394	0.0374	0.0359	0.0347	0.0337	0.0330	0.0323	0.0318	0.0313	0.0309	0.0305	0.0302	0.0299
49	0.0339	0.0319	0.0304	0.0292	0.0283	0.0275	0.0268	0.0263	0.0258	0.0254	0.0251	0.0247	0.0245

Table 10-7E
Steel Truss[1] Framed Ceiling U_O with R-15 Sheathing[2]

Cavity R-value	Truss Span (ft)												
	12	14	16	18	20	22	24	26	28	30	32	34	36
19	0.0561	0.0550	0.0541	0.0535	0.0530	0.0526	0.0522	0.0519	0.0517	0.0515	0.0513	0.0511	0.0509
30	0.0393	0.0382	0.0373	0.0367	0.0362	0.0358	0.0354	0.0351	0.0349	0.0347	0.0345	0.0343	0.0341

Cavity R-value	Truss Span (ft)												
	12	14	16	18	20	22	24	26	28	30	32	34	36
38	0.0329	0.0318	0.0310	0.0303	0.0298	0.0294	0.0291	0.0288	0.0285	0.0283	0.0281	0.0279	0.0278
49	0.0274	0.0263	0.0255	0.0249	0.0244	0.0239	0.0236	0.0233	0.0230	0.0228	0.0226	0.0225	0.0223

1 - Assembly values based on 24 inch on center truss spacing; 11 Truss member connections penetrating insulation (4 at the eaves, 7 in the interior space); 1/2 inch drywall ceiling; all truss members are 2x4 "C" channels with a solid web.
2 - Ceiling sheathing installed between bottom chord and drywall.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-1007, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-1007, filed 1/5/01, effective 7/1/01; 98-03-003, § 51-11-1007, filed 1/8/98, effective 7/1/98. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-1007, filed 12/19/90, effective 7/1/91.]

WAC 51-11-1009 Section 1009 Mass.

1009.1 General: Tables 10-9 and 10-10 list default mass values for concrete masonry construction. Calculations are based on standard ASHRAE values for heat-storage capacity as listed in Standard RS-1, Chapter 25.

Thermal capacity of furniture is ignored, as is heat storage beyond the first four inches of mass thickness. All mass is assumed to be in direct contact with the conditioned space. Concrete separated from the heated volume by other materials must multiply the listed concrete mass value by the result of the following formula:

Ln(R-value) x (-.221) + 0.5
Where:
Ln = Natural log
R-value = R-value of material covering concrete

Note: All default values for covered concrete slabs have been adjusted according to this procedure.

1009.2 Mass Description: Mass is divided into two types: Structural and additional.

Structural Mass: Includes heat-storage capacity of all standard building components of a typical residential structure, including floors, ceilings, and interior and exterior walls in Btu/ft²•°F of floor area. It also assumes exterior wall, interior wall and ceiling surface area approximately equals three times the floor area.

Additional Mass: Includes any additional building material not part of the normal structure, which is added specifically to increase the building's thermal-storage capability. This category includes masonry fireplaces, water or trombe walls, and extra layers of sheetrock. Coefficients are in Btu/ft²•°F of surface area of material exposed to conditioned space. The coefficient for water is Btu/°F•gallon.

1009.3 Component Description: Light frame assumes one inch thick wood flooring with five-eighths inch sheetrock on ceilings and interior walls, and walls consisting of either five-eighths inch sheetrock or solid logs. Slab assumes a four-inch concrete slab on or below grade, with five-eighths inch sheetrock on exterior and interior walls and ceiling, and with separate values for interior or exterior wall insulation. Adjustments for slab covering is based on R-value of material. Additional mass values are based on the density multiplied by the specific heat of the material adjusted for listed thickness.

TABLE 10-9
HEAT CAPACITY

	Partial Grout	Solid Grout
8" CMU	9.65	15.0
12" CMU	14.5	23.6
8" Brick	10.9	16.4
6" Concrete	NA	14.4

TABLE 10-10
DEFAULT MASS VALUES

Structural Mass M-value	Btu/ft²•°F floor area
Light Frame:	
Joisted/post & beam floor, sheetrock walls and ceilings	3.0
Joisted/post & beam floor, log walls, sheetrock ceilings	4.0
Slab With Interior Wall Insulation:	
Slab, no covering or tile, sheetrock walls and ceilings	10.0
Slab, hardwood floor covering, sheetrock walls and ceilings	7.0
Slab, carpet and pad, sheetrock walls and ceilings	5.0
Slab With Exterior Wall Insulation:	
Slab, no covering or tile, sheetrock walls and ceilings	12.0
Slab, hardwood floor covering, sheetrock walls and ceilings	9.0
Slab, carpet and pad, sheetrock walls and ceilings	7.0
Additional Mass M-Value:	**Btu/ft²•°F surface area**
Gypsum wallboard, 1/2 inch thickness	0.54
Gypsum wallboard, 5/8 inch thickness	0.68
Hardwood floor	1.40

Structural Mass M-value	Btu/ft²•°F floor area
Concrete/Brick, 4 inch-thickness	10.30
Concrete/Brick, 6 inch-thickness	15.40
	Btu/°F•gallon
Water, 1 gallon	8.0

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-1009, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-1009, filed 1/5/01, effective 7/1/01; 98-03-003, § 51-11-1009, filed 1/8/98, effective 7/1/98. Statutory Authority: RCW 19.27A.020 and 1990 c 2. 91-01-112, § 51-11-1009, filed 12/19/90, effective 7/1/91.]

WAC 51-11-1143 Inspections.

1143.1 General: All construction or work for which a permit is required shall be subject to inspection by the building official and all such construction or work shall remain accessible and exposed for inspection purposes until approved by the building official. No work shall be done on any part of the building or structure beyond the point indicated in each inspection without first obtaining the approval of the building official.

1143.2 Required Inspections: The building official, upon notification, shall make the inspection required in this Section, in addition to or as part of those inspections required in Section 109.3 of the International Building Code. Inspections may be conducted by special inspection pursuant to Section 1704 of the International Building Code. Where applicable, inspections shall include at least:

1143.2.1 Envelope

a. Wall Insulation Inspection: To be made after all wall insulation and air vapor retarder sheet or film materials are in place, but before any wall covering is placed.

b. Glazing Inspection: To be made after glazing materials are installed in the building.

c. Exterior Roofing Insulation: To be made after the installation of the roof insulation, but before concealment.

d. Slab/Floor Insulation: To be made after the installation of the slab/floor insulation, but before concealment.

1143.2.2 Mechanical

a. Mechanical Equipment Efficiency and Economizer: To be made after all equipment and controls required by this Code are installed and prior to the concealment of such equipment or controls.

b. Mechanical Pipe and Duct Insulation: To be made after all pipe and duct insulation is in place, but before concealment.

1143.2.3 Lighting and Motors

a. Lighting Equipment and Controls: To be made after the installation of all lighting equipment and controls required by this Code, but before concealment of the lighting equipment.

b. Motor Inspections: To be made after installation of all equipment covered by this Code, but before concealment.

1143.3 Reinspection: The building official may require a structure to be reinspected. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-1143, filed 12/17/03, effective 7/1/04. Statutory Authority: Chapters 19.27 and 19.27A RCW and 1994 c 226. 95-01-126, § 51-11-1143, filed 12/21/94, effective 6/30/95. Statutory Authority: RCW 19.27A.025. 93-21-052, § 51-11-1143, filed 10/18/93, effective 4/1/94.]

WAC 51-11-1150 Conflicts with other codes. In case of conflicts among Codes enumerated in RCW 19.27.031 (1), (2), (3) and (4) and this Code, the first named Code shall govern. The duct insulation requirements in this Code or a local jurisdiction's energy code, whichever is more stringent, supersede the requirements in the Mechanical Code.

Where, in any specific case, different sections of this Code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-1150, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025. 93-21-052, § 51-11-1150, filed 10/18/93, effective 4/1/94.]

WAC 51-11-1313 Moisture control.

1313.1 Vapor Retarders: Vapor retarders shall be installed on the warm side (in winter) of insulation as required by this section.

EXCEPTION: Vapor retarder installed with not more than 1/3 of the nominal R-value between it and the conditioned space.

1313.2 Roof/Ceiling Assemblies: Roof/ceiling assemblies where the ventilation space above the insulation is less than an average of twelve inches shall be provided with a vapor retarder. (For enclosed attics and enclosed rafter spaces see Section 1203.2 of the International Building Code.) Roof/ceiling assemblies without a vented airspace, allowed only where neither the roof deck nor the roof structure are made of wood, shall provide a continuous vapor retarder with taped seams.

EXCEPTION: Vapor retarders need not be provided where all of the insulation is installed between the roof membrane and the structural roof deck.

1313.3 Walls: Walls separating conditioned space from unconditioned space shall be provided with a vapor retarder.

1313.4 Floors: Floors separating conditioned space from unconditioned space shall be provided with a vapor retarder.

1313.5 Crawl Spaces: A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped twelve inches minimum at the joints and shall extend to the foundation wall.

EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of three and one-half inches.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-1313, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-1313, filed 1/5/01, effective 7/1/01. Statutory Authority: RCW 19.27A.025. 93-21-052, § 51-11-1313, filed 10/18/93, effective 4/1/94.]

WAC 51-11-1332 Component U-factors. The U-factors for typical construction assemblies are included in Chapter 10. These values shall be used for all calculations. Where proposed construction assemblies are not represented in Chapter 10, values shall be calculated in accordance with Chapters 23 through 30 in Standard RS-1 listed in Chapter 7, using the framing factors listed in Chapter 10. For envelope assemblies containing metal framing, the U-factor shall be determined by one of the following methods:

1. Results of laboratory measurements according to acceptable methods of test.
2. Standard RS-1, listed in Chapter 7, where the metal framing is bonded on one or both sides to a metal skin or covering.
3. The zone method as provided in Chapter 25 of Standard RS-1, listed in Chapter 7.
4. Effective framing/cavity R-values as provided in Table 10-5A.

When return air ceiling plenums are employed, the roof/ceiling assembly shall:

a. For thermal transmittance purposes, not include the ceiling proper nor the plenum space as part of the assembly; and
b. For gross area purposes, be based upon the interior face of the upper plenum surface.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-1332, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025. 93-21-052, § 51-11-1332, filed 10/18/93, effective 4/1/94.]

WAC 51-11-1412 Controls.

1412.1 Temperature Controls: Each system shall be provided with at least one temperature control device. Each zone shall be controlled by individual thermostatic controls responding to temperature within the zone. At a minimum, each floor of a building shall be considered as a separate zone.

1412.2 Deadband Controls: When used to control both comfort heating and cooling, zone thermostatic controls shall be capable of a deadband of at least 5 degrees F within which the supply of heating and cooling energy to the zone is shut off or reduced to a minimum.

EXCEPTIONS: 1. Special occupancy, special usage, or code requirements where deadband controls are not appropriate.
2. Buildings complying with Section 1141.4, if in the proposed building energy analysis, heating and cooling thermostat setpoints are set to the same temperature between 70 degrees F and 75 degrees F inclusive, and assumed to be constant throughout the year.
3. Thermostats that require manual changeover between heating and cooling modes.

1412.3 Humidity Controls: If a system is equipped with a means for adding moisture, a humidistat shall be provided.

1412.4 Setback and Shutoff: HVAC systems shall be equipped with automatic controls capable of accomplishing a reduction of energy use through control setback or equipment shutdown during periods of nonuse or alternate use of the spaces served by the system. The automatic controls shall have a minimum seven-day clock and be capable of being set for seven different day types per week.

EXCEPTIONS: 1. Systems serving areas which require continuous operation at the same temperature setpoint.
2. Equipment with full load demands of 2 Kw (6,826 Btu/h) or less may be controlled by readily accessible manual off-hour controls.

1412.4.1 Dampers: Outside air intakes, exhaust outlets and relief outlets serving conditioned spaces shall be equipped with motorized dampers which close automatically when the system is off or upon power failure.

EXCEPTIONS: 1. Systems serving areas which require continuous operation.
2. Combustion air intakes.
3. Gravity (nonmotorized) dampers are acceptable in buildings less than 3 stories in height.
4. Gravity (nonmotorized) dampers are acceptable in exhaust and relief outlets in the first story and levels below the first story of buildings three or more stories in height.
5. Type 1 grease hoods exhaust.

Dampers installed to comply with this section, including dampers integral to HVAC equipment, shall have a maximum leakage rate when tested in accordance with AMCA Standard 500 of:

(a) Motorized dampers: 10 cfm/ft^2 of damper area at 1.0 in w.g.

(b) Nonmotorized dampers: 20 cfm/ft^2 of damper area at 1.0 in w.g., except that for nonmotorized dampers smaller than 24 inches in either dimension: 40 cfm/ft^2 of damper area at 1.0 in w.g.

Drawings shall indicate compliance with this section.

1412.4.2 **Optimum Start Controls:** Heating and cooling systems with design supply air capacities exceeding 10,000 cfm shall have optimum start controls. Optimum start controls shall be designed to automatically adjust the start time of an HVAC system each day to bring the space to desired occupied temperature levels immediately before scheduled occupancy. The control algorithm shall, as a minimum, be a function of the difference between space temperature and occupied setpoint and the amount of time prior to scheduled occupancy.

1412.5 Heat Pump Controls: Unitary air cooled heat pumps shall include microprocessor controls that minimize supplemental heat usage during start up, set-up, and defrost conditions. These controls shall anticipate need for heat and use compression heating as the first stage of heat. Controls shall indicate when supplemental heating is being used through visual means (e.g., LED indicators).

1412.6 Combustion Heating Equipment Controls: Combustion heating equipment with a capacity over 225,000 Btu/h shall have modulating or staged combustion control.

EXCEPTIONS: Boilers.
Radiant heaters.

1412.7 Balancing: Each air supply outlet or air or water terminal device shall have a means for balancing, including but

not limited to, dampers, temperature and pressure test connections and balancing valves.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-1412, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 02-01-112, § 51-11-1412, filed 12/18/01, effective 7/1/02; 01-03-010, § 51-11-1412, filed 1/5/01, effective 7/1/01; 98-03-003, § 51-11-1412, filed 1/8/98, effective 7/1/98. Statutory Authority: RCW 19.27A.025. 93-21-052, § 51-11-1412, filed 10/18/93, effective 4/1/94.]

WAC 51-11-1415 Piping systems.

1415.1 Insulation: Piping shall be thermally insulated in accordance with Table 14-6.

EXCEPTION: Piping installed within unitary HVAC equipment.

Cold water pipes outside the conditioned space shall be insulated in accordance with the Washington State Plumbing Code (chapter 51-56 WAC).

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-1415, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-1415, filed 1/5/01, effective 7/1/01. Statutory Authority: RCW 19.27A.025. 93-21-052, § 51-11-1415, filed 10/18/93, effective 4/1/94.]

WAC 51-11-1532 Exterior lighting power allowance.

The exterior lighting power allowance shall be the sum of the calculated allowances for parking, outdoor areas and building exteriors. The lighting allowance for covered parking, open parking and outdoor areas that are illuminated shall be 0.20 watts per square foot. The lighting allowance for building exteriors shall be calculated either by multiplying the building facade area by 0.25 watts per square foot or multiplying the building perimeter in feet by 7.5 watts per linear foot.

EXCEPTIONS: 1. Group U Occupancy accessory to Group R-3 or R-4 Occupancy.
2. For covered parking, 0.30 w/sf may be used for the lighting provided that the ceilings and walls are painted or stained with a reflectance value of 0.70 or higher.

TABLE 15-1
Unit Lighting Power Allowance (LPA)

Use[1]	LPA[2] (watts/sq. ft.)
Painting, welding, carpentry, machine shops	2.3
Barber shops, beauty shops	2.0
Hotel banquet/conference/exhibition hall[3,4]	2.0
Laboratories	2.0
Aircraft repair hangars	1.5
Cafeterias, fast food establishments[5]	1.5
Factories, workshops, handling areas	1.5
Gas stations, auto repair shops[6]	1.5
Institutions	1.5
Libraries[5]	1.5
Nursing homes and hotel/motel guest rooms	1.5
Retail[10], retail banking	1.5
Wholesale stores (pallet rack shelving)	1.5
Mall concourses	1.4
Schools buildings (Group E Occupancy only), school classrooms, day care centers	1.35
Laundries	1.3
Office buildings, office/administrative areas in facilities of other use types (including but not limited to schools, hospitals, institutions, museums, banks, churches)[5,7,11]	1.2
Police and fire stations[8]	1.2
Atria (atriums)	1.0
Assembly spaces[9], auditoriums, gymnasia[9], theaters	1.0
Group R-1 and R-2 common areas	1.0
Process plants	1.0
Restaurants/bars[5]	1.0
Locker and/or shower facilities	0.8
Warehouses[11], storage areas	0.5
Aircraft storage hangars	0.4
Parking garages	See Section 1532
Plans Submitted for Common Areas Only[7]	
Main floor building lobbies[3] (except mall concourses)	1.2
Common areas, corridors, toilet facilities and washrooms, elevator lobbies	0.8

Footnotes for Table 15-1

1. In cases in which a general use and a specific use are listed, the specific use shall apply. In cases in which a use is not mentioned specifically, the *Unit Power Allowance* shall be determined by the building official. This determination shall be based upon the most comparable use specified in the table. See Section 1512 for exempt areas.
2. The watts per square foot may be increased, by two percent per foot of ceiling height above twenty feet, unless specifically directed otherwise by subsequent footnotes.
3. Watts per square foot of room may be increased by two percent per foot of ceiling height above twelve feet.
4. For all other spaces, such as seating and common areas, use the *Unit Light Power Allowance* for assembly.
5. Watts per square foot of room may be increased by two percent per foot of ceiling height above nine feet.
6. Includes pump area under canopy.
7. In cases in which a lighting plan is submitted for only a portion of a floor, a *Unit Lighting Power Allowance* of 1.35 may be used for usable office floor area and 0.80 watts per square foot shall be used for the common areas, which may include elevator space, lobby area and rest rooms. Common areas, as herein defined do not include mall concourses.
8. For the fire engine room, the *Unit Lighting Power Allowance* is 1.0 watts per square foot.
9. For indoor sport tournament courts with adjacent spectator seating, the *Unit Lighting Power Allowance* for the court area is 2.6 watts per square foot.
10. Display window illumination installed within 2 feet of the window, lighting for free-standing display where the lighting moves with the display, and building showcase illumination where the lighting is enclosed within the showcase are exempt.

    An additional 1.5 w/ft^2 of merchandise display luminaires are exempt provided that they comply with all three of the following:

    (a) Located on ceiling-mounted track or directly on or recessed into the ceiling itself (not on the wall).

(b) Adjustable in both the horizontal and vertical axes (vertical axis only is acceptable for fluorescent and other fixtures with two points of track attachment).

(c) Fitted with tungsten halogen, fluorescent, or high intensity discharge lamps.

This additional lighting power is allowed only if the lighting is actually installed.

11. Provided that a floor plan, indicating rack location and height, is submitted, the square footage for a warehouse may be defined, for computing the interior *Unit Lighting Power Allowance*, as the floor area not covered by racks plus the vertical face area (access side only) of the racks. The height allowance defined in footnote 2 applies only to the floor area not covered by racks.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-1532, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-1532, filed 1/5/01, effective 7/1/01. Statutory Authority: RCW 19.27A.025. 93-21-052, § 51-11-1532, filed 10/18/93, effective 4/1/94.]

WAC 51-11-99902 Section 2—General principles and requirements.

2.1 Energy Analysis: Compliance with this Standard will require an analysis of the annual energy usage, hereinafter called an annual energy analysis.

A building designed in accordance with this Standard will be deemed as complying with this Code, if

a. The calculated annual energy consumption is not greater than that of a corresponding "standard design," as defined below and in Section 3,

and;

b. Whose enclosure elements and energy-consuming systems comply with Sections 1310 through 1314, 1410 through 1416, 1440 through 1443, 1450 through 1454 and 1510 through 1513. Buildings shall only vary from those requirements in Sections 1330 through 1334, 1432 through 1439 and 1530 through 1532 where those variations have been accurately and completely modeled. Where variations are not specifically analyzed, the building shall comply with these requirements.

For a proposed building design to be considered similar to a "standard design," it shall utilize the same energy source(s) for the same functions and have equal floor area and the same ratio of envelope area to floor area, environmental requirements, occupancy, climate data and usage operational schedule. Inputs to the energy analysis relating to occupancy and usage shall correspond to the expected occupancy and usage of the building.

Except as noted below, the systems identified, and, to the extent possible, the assumptions made in assigning energy inputs to each system, shall be the same for the standard design and the proposed design. When electrically driven heat pumps, other than multiple units connected to a common water loop, are employed to provide all or part of the heat for the proposed design, the standard design shall also, for the purposes of the analysis, assume that electrically driven heat pump, in conformance with Chapter 14 of the Code and having capacity at least as great as those used in the proposed design are employed.

2.2 Design: The standard design and the proposed design shall be designed on a common basis as specified herein:

a. The comparison shall be expressed as kBtu input per square foot of conditioned floor area per year at the building site. Buildings which use electricity as the only fuel source, comparisons may be expressed in kWh. When converting electricity in kWh to kBtu a multiplier of 3.413 kWh/kBtu shall be used.

b. If the proposed design results in an increase in consumption of one energy source and a decrease in another energy source, even though similar sources are used for similar purposes, the difference in each energy source shall be converted to equivalent energy units for purposes of comparing the total energy used.

2.3 Analysis Procedure: The analysis of the annual energy usage of the standard and the proposed building and system design shall meet the following criteria:

a. The building heating/cooling load calculation procedure used for annual energy consumption analysis shall be detailed to permit the evaluation of effect of factors specified in Section 2.4.

b. The calculation procedure used to simulate the operation of the building and its service systems through a full-year operating period shall be detailed to permit the evaluation of the effect of system design, climatic factors, operational characteristics and mechanical equipment on annual energy usage. Manufacturer's data or comparable field test data shall be used when available in the simulation of systems and equipment. The calculation procedure shall be based upon 8,760 hours of operation of the building and its service systems and shall utilize the design methods, specified in Standard RS-1 listed in Chapter 7 of the Code or in other programs approved by the building official.

2.4 Calculation Procedure: The calculation procedure shall cover the following items:

a. Design requirements—Design heating conditions and design cooling conditions as defined in Chapter 2 of the Code.

b. Climatic data—Coincident hourly data for temperatures, solar radiation, wind and humidity of typical days in the year representing seasonal variation.

c. Building data—Orientation, size, shape, mass, air and heat transfer characteristics.

d. Operational characteristics—Temperature, humidity, ventilation, illumination and control mode for occupied and unoccupied hours.

e. Mechanical equipment—Design capacity and part load profile.

f. Building loads—Internal heat generation, lighting, equipment and number of people during occupied and unoccupied periods.

2.5 Documentation: All analyses submitted shall be accompanied by an energy analysis comparison report. The report shall provide technical detail on the two building and system designs and on the data used in and resulting from the comparative analysis to verify that both the analysis and the designs meet the criteria of Section 1.

The calculation procedure for the standard design and the proposed design shall separately identify the calculated annual energy consumption for each different occupancy type, if possible, for each of the following end uses:

a. Interior lighting;
b. Parking lighting;
c. Exterior lighting;
d. Space heating;
e. Space cooling;
f. Interior ventilation/fans;
g. Parking ventilation/fans;
h. Exhaust fans;
i. Service water heating;
j. Elevators;
k. Appliances.

Energy consumption of the following items shall be included but is not required to be separated out by each individual item.

a. Office equipment;
b. Refrigeration other than comfort cooling;
c. Cooking; and
d. Any other energy-consuming equipment.

The specifications of the proposed building project used in the analysis shall be as similar as is reasonably practical to those in the plans submitted for a building permit.

[Statutory Authority: RCW 19.27A.020, 19.27A.045. 04-01-106, § 51-11-99902, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27A.025, 19.27A.045. 01-03-010, § 51-11-99902, filed 1/5/01, effective 7/1/01. Statutory Authority: RCW 19.27A.025. 93-21-052, § 51-11-99902, filed 10/18/93, effective 4/1/94.]

Chapter 51-40 WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE 1997 EDITION OF THE UNIFORM BUILDING CODE

WAC

51-40-001 through 51-40-93120 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

51-40-001 Authority. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-001, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-002 Purpose. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-002, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-003 Uniform Building Code. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-003, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-004 Conflicts with Washington State Ventilation and Indoor Air Quality Code. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-004, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-005 Uniform Building Code requirements for barrier-free accessibility. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-005, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-007 Exceptions. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-24-078, § 51-40-007, filed 12/1/98, effective 7/1/99; 98-02-054, § 51-40-007, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-008 Implementation. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-008, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-009 Recyclable materials and solid waste storage. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-009, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0200 Chapter 2—Definitions and abbreviations. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-095, § 51-40-0200, filed 1/3/01, effective 7/1/01; 98-02-054, § 51-40-0200, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0302 Section 302—Mixed use or occupancy. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-0302, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0303 Section 303—Requirements for Group A Occupancies. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-0303, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0304 Section 304—Requirements for Group B Occupancies. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-0304, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0305 Section 305—Requirements for Group E Occupancies. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-0305, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0307 Section 307—Requirements for Group H Occupancies. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-0307, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0308 Section 308—Requirements for Group I Occupancies. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-0308, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0310 Section 310—Requirements for Group R Occupancies. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-095, § 51-40-0310, filed 1/3/01, effective 7/1/01; 98-02-054, § 51-40-0310, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0311 Section 311—Requirements for Group S Occupancies. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-0311, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0313 Section 313—Requirements for Group LC Occupancies. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-095, § 51-40-0313, filed 1/3/01, effective 7/1/01; 98-02-054, § 51-40-0313, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0403 Section 403—Special provisions for Group B office buildings and Group R, Division 1 Occupancies. [Statutory Authority: RCW 19.27.031, 19.27.074. 03-01-055, § 51-40-0403, filed 12/11/02, effective 7/1/03; 98-02-054, § 51-40-0403, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0405 Section 405—Stages and platforms. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-0405, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0510 Section 510—Heating. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-0510, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0804 Section 804—Maximum allowable flame spread. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-0804, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0902 Section 902—Standards of quality. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-095, § 51-40-0902, filed 1/3/01, effective 7/1/01; 98-02-054, § 51-40-0902, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0904 Section 904—Fire-extinguishing systems. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-0904, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-0905 Section 905—Smoke control. [Statutory Authority: RCW 19.27.031, 19.27.074. 03-01-055, § 51-40-0905, filed 12/11/02, effective 7/1/03.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1000 Chapter 10—Means of egress. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1000, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1002 Definitions. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1002, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1003 General egress requirements. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-095, § 51-40-1003, filed 1/3/01, effective 7/1/01; 98-02-054, § 51-40-1003, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1004 The exit access. [Statutory Authority: RCW 19.27.031, 19.27.074. 03-01-055, § 51-40-1004, filed 12/11/02, effective 7/1/03; 01-02-095, § 51-40-1004, filed 1/3/01, effective 7/1/01; 98-02-054, § 51-40-1004, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1007 Means of egress requirements based on occupancy. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1007, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1091 Table 10-A. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1091, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1100 Chapter 11—Accessibility. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1100, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1101 Section 1101—Scope. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1101, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1102 Section 1102—Definitions. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1102, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1103 Section 1103—Building accessibility. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1103, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1104 Section 1104—Egress and areas of evacuation assistance. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-095, § 51-40-1104, filed 1/3/01, effective 7/1/01; 98-02-054, § 51-40-1104, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1105 Section 1105—Facility accessibility. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-095, § 51-40-1105, filed 1/3/01, effective 7/1/01; 98-02-054, § 51-40-1105, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1106 Section 1106—Accessible design and standards. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-095, § 51-40-1106, filed 1/3/01, effective 7/1/01; 98-02-054, § 51-40-1106, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1107 Section 1107—Parking facilities. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1107, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1108 Section 1108—Passenger loading zones. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1108, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1109 Section 1109—Scope. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1109, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1110 Section 1110—Definitions. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1110, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1111 Section 1111—Additions. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1111, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1112 Section 1112—Alterations. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1112, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1113 Section 1113—Historic preservation. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1113, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1114 Section 1114—Appeal. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1114, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1191 Table No. 11-A. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1191, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1192 Table No. 11-B. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1192, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1193 Table No. 11-C. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1193, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1194 Table No. 11-D. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1194, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1195 Table No. 11-E. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1195, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1196 Table No. 11-F. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1196, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1202 Section 1202—Light and ventilation in Groups A, B, E, F, H, I, M and S Occupancies. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-095, § 51-40-1202, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1203 Section 1203—Light and ventilation in Group R Occupancies. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-095, § 51-40-1203, filed 1/3/01, effective 7/1/01; 98-02-054, § 51-40-1203, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1616 Section 1616—Definitions. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1616, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1702 Section 1702—Structural observation. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1702, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-1909 Section 1909—Strength and serviceability requirements. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-1909, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-2406 Section 2406—Safety glazing. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-2406, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-2900 Chapter 29—Plumbing systems. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-095, § 51-40-2900, filed 1/3/01, effective 7/1/01; 98-02-054, § 51-40-2900, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-2929 Table 29-A—Minimum plumbing fixtures. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-2929, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-3004 Hoistway venting. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-3004, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-3102 Section 3102—Chimneys, fireplaces and barbecues. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-095, § 51-40-3102, filed 1/3/01, effective 7/1/01; 98-02-054, § 51-40-3102, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-31200 Section 31-2—Standard test method for particulate emissions from fireplaces. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-095, § 51-40-31200, filed 1/3/01, effective 7/1/01; 98-02-054, § 51-40-31200, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-3404 Section 3404—Moved buildings. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-3404, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-93115 Section 93115. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-93115, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-93116 Section 93116. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-93116, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-93117 Section 93117. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-93117, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-93118 Section 93118. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-93118, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-93119 Section 93119. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-93119, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-40-93120 Section 93120. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-054, § 51-40-93120, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-108, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

WAC 51-40-001 through 51-40-93120 Repealed. See Disposition Table at beginning of this chapter.

Chapter 51-42 WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE 1997 EDITION OF THE UNIFORM MECHANICAL CODE

WAC

51-42-001 through 51-42-1401 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

51-42-001 Authority. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-001, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-002 Purpose. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-002, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-003 Uniform Mechanical Code. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-003, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-004 Conflict between Uniform Mechanical Code and State Energy Code chapter 51-11 WAC. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-004, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-005 Conflict between Uniform Mechanical Code and State Ventilation and Indoor Air Quality Code chapter 51-13 WAC. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-005, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-007 Exceptions. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-24-078, § 51-42-007, filed 12/1/98, effective 7/1/99; 98-02-056, § 51-42-007, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-008 Implementation. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-008, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-0200 Chapter 2—Definitions. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-0200, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-0223 Section 223—U. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-0223, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-0303 Section 303—Installation. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-0303, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-0405 Section 405—Direct gas-fired make-up air systems. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-0405, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-0504 Environmental air ducts. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-0504, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-0600 Chapter 6—Duct systems. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-0600, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-0601 Scope. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-0601, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-0605 Dampers in duct systems. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-0605, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-0901 Vented decorative appliances, decorative gas appliances for installation in solid-fuel-burning fireplaces, gas-fired log lighters, unvented decorative gas logs and decorative fireplaces. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-0901, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1000 Chapter 10—Boiler/water heaters. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1000, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1002 General. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1002, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1004 Safety devices. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1004, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1005 Steam and hot-water boilers. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1005, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1100 Chapter 11—Refrigeration. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1100, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1101 General. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1101, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1102 System requirements. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1102, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1103 Refrigeration system classification. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1103, filed 1/3/01, effective 7/1/01; 98-02-056, § 51-42-1103, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1104 Refrigerant classification and system requirements. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1104, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1105 Machinery room, general requirements. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1105, filed 1/3/01; 98-02-056, § 51-42-1105, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1106 Machinery room, special requirements. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1106, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1107 Refrigerant piping. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1107, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1108 Field test. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1108, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1109 Refrigerant piping, containers and valves. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1109, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1110 Erection of refrigerant piping. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1110, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1111 Refrigerant control valves. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1111, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1112 Pressure-limiting devices. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1112, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1113 Pressure-relief devices. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1113, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1114 Pressure-relief device settings. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1114, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1115 Marking of pressure-relief devices. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1115, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1116 Over-pressure protection. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1116, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1117 Discharge piping. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1117, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1118 Special discharge requirements. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1118, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1119 Ammonia discharge. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1119, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1120 Detection and alarm systems. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1120, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1121 Equipment identification. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1121, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed

12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1122 Testing of refrigeration equipment. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1122, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1123 Maintenance and operation. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1123, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1124 Storage of refrigerants and refrigerant oils. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1124, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1126 Tables not adopted. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1126, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1301 Section 1301—General. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-098, § 51-42-1301, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1311 Material for gas piping. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1311, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1312 Installation of gas piping. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1312, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-42-1401 Oil-burning appliances. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-056, § 51-42-1401, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-104, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

WAC 51-42-001 through 51-42-1401 Repealed. See Disposition Table at beginning of this chapter.

Chapter 51-44 WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE 1997 EDITION OF THE UNIFORM FIRE CODE

WAC

51-44-001 through 51-44-8000 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

51-44-001 Authority. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-44-001, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-002 Purpose. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-44-002, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-003 Uniform Fire Code. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-44-003, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-007 Exceptions. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-24-078, § 51-44-007, filed 12/1/98, effective 7/1/99; 98-02-053, § 51-44-007, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-008 Implementation. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-44-008, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-0103 Section 103—Inspection and enforcement. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-096, § 51-44-0103, filed 1/3/01, effective 7/1/01; 98-02-053, § 51-44-0103, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-0105 Section 105.8—Permit required. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-096, § 51-44-0105, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-0200 Article 2—Definitions and abbreviations. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-096, § 51-44-0200, filed 1/3/01, effective 7/1/01; 98-02-053, § 51-44-0200, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-0900 Article 9—Fire department access and water supply. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-44-0900, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-1003 Section 1003—Fire-extinguishing systems. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-44-1003, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-1007 Section 1007—Fire alarm systems. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-096, § 51-44-1007, filed 1/3/01, effective 7/1/01; 98-02-053, § 51-44-1007, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-10210 Appendix II-J—Storage of flammable and combustible liquids in tanks located within below-grade vaults. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-44-10210, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-1102 Section 1102—Incineration, open burning and commercial barbecue pits. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-096, § 51-44-1102, filed 1/3/01, effective 7/1/01.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-1109 Section 1109—Control of sources of ignition. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-096, § 51-44-1109, filed 1/3/01, effective 7/1/01; 98-02-053, § 51-44-1109, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-2500 Article 25—Places of assembly. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-096, § 51-44-2500, filed 1/3/01, effective 7/1/01; 98-02-053, § 51-44-2500, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-5200 Article 52—Motor vehicle fuel-dispensing stations. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-096, § 51-44-5200, filed 1/3/01, effective 7/1/01; 98-02-053, § 51-44-5200, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-6100 Article 61—Oil-burning equipment. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-44-6100, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-6300 Article 63—Refrigeration. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-44-6300, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-7404 Section 7404—Medical gas systems. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-44-7404, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-7802 Section 7802—Fireworks. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-44-7802, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105,

filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-7900 Article 79—Flammable and combustible liquids. [Statutory Authority: RCW 19.27.031, 19.27.074. 01-02-096, § 51-44-7900, filed 1/3/01, effective 7/1/01; 98-02-053, § 51-44-7900, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-44-8000 Article 80—Hazardous materials. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-44-8000, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

WAC 51-44-001 through 51-44-8000 Repealed. See Disposition Table at beginning of this chapter.

Chapter 51-45 WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE 1997 EDITION OF THE UNIFORM FIRE CODE STANDARDS

WAC

51-45-001 through 51-45-80400 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

51-45-001 Authority. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-45-001, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-45-002 Purpose. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-45-002, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-45-003 Uniform Fire Code Standards. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-45-003, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-45-007 Exceptions. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-45-007, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-45-008 Implementation. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-45-008, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

51-45-80400 Standard 80-4—Inert cryogenic fluid systems at consumer sites. [Statutory Authority: RCW 19.27.031 and 19.27.074. 98-02-053, § 51-45-80400, filed 1/6/98, effective 7/1/98.] Repealed by 04-01-105, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

WAC 51-45-001 through 51-45-80400 Repealed. See Disposition Table at beginning of this chapter.

Chapter 51-50 WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE 2003 EDITION OF THE INTERNATIONAL BUILDING CODE

(Formerly chapter 51-40 WAC)

WAC

51-50-001 Authority.
51-50-002 Purpose.
51-50-003 International Building Code.
51-50-004 Conflicts with Washington State Ventilation and Indoor Air Quality Code.
51-50-005 International Building Code requirements for barrier-free accessibility.
51-50-007 Exceptions.
51-50-008 Implementation.
51-50-009 Recyclable materials and solid waste storage.
51-50-0200 Chapter 2—Definitions.
51-50-0302 Section 302—Classification.
51-50-0305 Section 305—Educational Group E.
51-50-0308 Section 308—Institutional Group I.
51-50-0310 Section 310—Residential Group R.
51-50-0313 Section 313—Licensed Care Group LC.
51-50-0419 Section 419—Group LC.
51-50-0707 Section 707—Shaft enclosures.
51-50-0902 Section 902—Definitions.
51-50-0903 Section 903—Automatic sprinkler systems.
51-50-0909 Section 909—Smoke control systems.
51-50-1008 Section 1008—Doors, gates and turnstiles.
51-50-1009 Section 1009—Stairways and handrails.
51-50-1010 Section 1010—Ramps.
51-50-1024 Section 1024—Assembly.
51-50-1101 Section 1101—General.
51-50-1103 Section 1103—Scoping requirements.
51-50-1104 Section 1104—Accessible route.
51-50-1105 Section 1105—Accessible entrances.
51-50-1106 Section 1106—Parking and passenger loading facilities.
51-50-1107 Section 1107—Dwelling units and sleeping units.
51-50-1109 Section 1109—Other features and facilities.
51-50-1203 Section 1203—Ventilation.
51-50-1204 Section 1204—Temperature control.
51-50-1208 Section 1208—Interior space dimensions.
51-50-1702 Section 1702—Definitions.
51-50-1709 Section 1709—Structural observations.
51-50-2114 Section 2114—Emission standards.
51-50-2900 Chapter 29—Plumbing systems.
51-50-3001 Section 3001—General.
51-50-3002 Section 3002—Hoistway enclosures.
51-50-3003 Section 3003—Emergency operations.
51-50-3004 Section 3004—Hoistway venting.
51-50-3005 Section 3005—Conveying systems.
51-50-3006 Section 3006—Machine rooms.
51-50-31200 Section 31-2—Standard test method for particulate emissions from fireplaces.
51-50-3408 Section 3408—Moved structures.
51-50-3409 Section 3409—Accessibility for existing buildings.

WAC 51-50-001 Authority. These rules are adopted under the authority of chapter 19.27 RCW.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-001, filed 12/17/03, effective 7/1/04.]

WAC 51-50-002 Purpose. The purpose of these rules is to implement the provisions of chapter 19.27 RCW, which provides that the state building code council shall maintain the State Building Code in a status which is consistent with the purpose as set forth in RCW 19.27.020. In maintaining the codes the council shall regularly review updated versions of the codes adopted under the act, and other pertinent information, and shall amend the codes as deemed appropriate by the council.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-002, filed 12/17/03, effective 7/1/04.]

WAC 51-50-003 International Building Code. The 2003 edition of the *International Building Code*, including Sections 101 through 106 of Appendix E, published by the International Code Council is hereby adopted by reference with the exceptions noted in this chapter of the Washington Administrative Code.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-003, filed 12/17/03, effective 7/1/04.]

WAC 51-50-004 Conflicts with Washington State Ventilation and Indoor Air Quality Code. In the case of conflict between the ventilation requirements of Chapter 12 of this code and the ventilation requirements of chapter 51-13 WAC, the provisions of the Ventilation and Indoor Air Quality Code shall govern.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-004, filed 12/17/03, effective 7/1/04.]

WAC 51-50-005 International Building Code requirements for barrier-free accessibility. Chapter 11 and other International Building Code requirements for barrier-free access, including ICC A117.1-1998 and Appendix E Sections 101 through 106, are adopted pursuant to chapters 70.92 and 19.27 RCW.

Pursuant to RCW 19.27.040, Chapter 11 and requirements affecting barrier-free access shall not be amended by local governments.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-005, filed 12/17/03, effective 7/1/04.]

WAC 51-50-007 Exceptions. The exceptions and amendments to the International Building Code contained in the provisions of chapter 19.27 RCW shall apply in case of conflict with any of the provisions of these rules.

The provisions of this code do not apply to temporary growing structures used solely for the commercial production of horticultural plants including ornamental plants, flowers, vegetables, and fruits. "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention. A temporary growing structure is not considered a building for purposes of this code.

The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter 70.114A RCW or chapter 37, Laws of 1998 (SB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

Codes referenced which are not adopted through RCW 19.27.031 or chapter 19.27A RCW shall not apply unless specifically adopted by the authority having jurisdiction.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-007, filed 12/17/03, effective 7/1/04.]

WAC 51-50-008 Implementation. The International Building Code adopted under chapter 51-50 WAC shall become effective in all counties and cities of this state on July 1, 2004.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-008, filed 12/17/03, effective 7/1/04.]

WAC 51-50-009 Recyclable materials and solid waste storage. For the purposes of this section, the following definition shall apply:

RECYCLED MATERIALS means those solid wastes that are separated for recycling or reuse, such as papers, metals and glass.

All local jurisdictions shall require that space be provide for the storage of recycled materials and solid waste for all new buildings.

EXCEPTION:Group R-3 and Group U Occupancies.

The storage area shall be designed to meet the needs of the occupancy, efficiency of pickup, and shall be available to occupants and haulers.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-009, filed 12/17/03, effective 7/1/04.]

WAC 51-50-0200 Chapter 2—Definitions.

SECTION 202—DEFINITIONS.

ADULT FAMILY HOME. See Section 310.2.

CHILD DAY CARE. See Section 310.2.

CHILD DAY CARE HOME, FAMILY. See Section 310.2.

PORTABLE SCHOOL CLASSROOM. See Section 902.1.

RESIDENTIAL CARE/ASSISTED LIVING FACILITIES. See Section 310.2.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0200, filed 12/17/03, effective 7/1/04.]

WAC 51-50-0302 Section 302—Classification.

302.3 Mixed occupancies. Where a building is occupied by two or more uses not included in the same occupancy classification, the building or portion thereof shall comply with Section 302.3.1 or 302.3.2 or a combination of these sections.

EXCEPTIONS:
1. Occupancies separated in accordance with Section 508.
2. Areas of Group H-2, H-3, H-4 or H-5 Occupancies shall be separated from any other occupancy in accordance with Section 302.3.2.
3. Where required by Table 415.3.2, areas of Group H-1, H-2 or H-3 Occupancies shall be located in a separate and detached building or structure.
4. Accessory use areas in accordance with Section 302.2.
5. Incidental use areas in accordance with Section 302.1.1.
6. Offices, mercantile, food preparation establishments for off-site consumption, personal care salons or similar uses in Group R dwelling units, which are conducted primarily by the occupants of a dwelling unit and are secondary to the use of the unit for dwelling purposes, and which do not exceed 500 square feet (46.4 m^2).

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0302, filed 12/17/03, effective 7/1/04.]

WAC 51-50-0305 Section 305—Educational Group E.

305.2 Day Care. The use of a building or structure, or portion thereof, for educational, supervision or personal care services for more than five children older than 2 1/2 years of age, shall be classified as a Group E Occupancy.

EXCEPTION: Family child day care homes licensed by the Washington state department of social and health services for the care of twelve or fewer children shall be classified as Group R-3.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0305, filed 12/17/03, effective 7/1/04.]

WAC 51-50-0308 Section 308—Institutional Group I.

308.2 Group I-1. This occupancy shall include buildings, structures or parts thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following:

Residential board and care facilities
Assisted living facilities
Halfway houses
Group homes
Congregate care facilities
Social rehabilitation facilities
Alcohol and drug centers
Convalescent facilities

A facility such as the above with five or fewer persons and adult family homes licensed by the Washington state department of social and health services shall be classified as a Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2. A facility such as above, housing at least six and not more than 16 persons, shall be classified as Group R-4.

A facility such as the above providing licensed care to clients in one of the categories listed in Section 313.1 regulated by either the Washington department of health or the department of social and health services shall be classified as Licensed Care Group LC.

308.3 Group I-2. This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than five persons who are not capable of self-preservation. This group shall include, but not be limited to, the following:

Hospitals
Nursing homes (both intermediate-care facilities and skilled nursing facilities)
Mental hospitals
Detoxification facilities

A facility such as the above with five or fewer persons shall be classified as Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2.

A facility such as the above providing licensed care to clients in one of the categories listed in Section 313.1 regulated by either the Washington department of health or the department of social and health services shall be classified as Licensed Care Group LC.

308.5.2 Child care facility. A facility that provides supervision and personal care on a less than 24-hour basis for more than five children 2 1/2 years of age or less shall be classified as Group I-4.

EXCEPTIONS: 1. A child day care facility that provides care for more than five but no more than 100 children 2 1/2 years or less of age, when the rooms where such children are cared for are located on the level of exit discharge and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.
2. Family child day care homes licensed by the Washington state department of social and health services for the care of twelve or fewer children shall be classified as Group R-3.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0308, filed 12/17/03, effective 7/1/04.]

WAC 51-50-0310 Section 310—Residential Group R.

310.1 Residential Group R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or Licensed Care Group LC. Residential occupancies shall include the following:

R-1 Residential occupancies where the occupants are primarily transient in nature, including:

Boarding houses (transient)
Hotels (transient)
Motels (transient)

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

Apartment houses
Boarding houses (not transient)
Convents
Dormitories
Fraternities and sororities
Monasteries
Vacation timeshare properties
Hotels (nontransient)
Motels (nontransient)

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4 or I and where buildings do not contain more than two dwelling units as applicable in Section 101.2, including adult family homes and family child day care homes for the care of twelve or fewer children, licensed by the Washington state department of social and health services, or adult and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours. Adult family homes and family child day care homes, or adult and child care facilities that are within a single-family home are permitted to comply with the International Residential Code in accordance with Section 101.2.

Foster family care homes licensed by the Washington state department of social and health services shall be permitted, as an accessory use to a dwelling, for six or fewer children including those of the resident family.

R-4 Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff.

EXCEPTIONS: 1. A facility such as the above providing licensed care to clients in one of the categories listed in Section 313.1 regulated by either the Washington department of health or the department of social and health services shall be classified as Licensed Care Group LC.
2. Adult family homes, family child day care homes and foster family care homes shall be classified as Group R-3.

Group R-4 Occupancies shall meet the requirements for construction as defined for Group R-3 except as otherwise

provided for in this code or shall comply with the International Residential Code in accordance with Section 101.2.

310.2 Definitions.

ADULT FAMILY HOME means a dwelling in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

CHILD DAY CARE, shall, for the purposes of these regulations, mean the care of children during any period of a 24-hour day.

CHILD DAY CARE HOME, FAMILY is a child day care facility, licensed by the state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

RESIDENTIAL CARE/ASSISTED LIVING FACILITIES. A building or part thereof housing persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides personal care services that is not classified as Licensed Care Group LC. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following: Residential board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers and convalescent facilities.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0310, filed 12/17/03, effective 7/1/04.]

WAC 51-50-0313 Section 313—Licensed Care Group LC.

SECTION 313—LICENSED CARE GROUP LC.

313.1 General. Licensed Care Group LC includes the use of a building, structure, or portion thereof, for the business of providing licensed care to clients in one of the following categories regulated by either the Washington department of health or the department of social and health services:

1. Adult residential rehabilitation facility.
2. Alcoholism intensive inpatient treatment service.
3. Alcoholism detoxification service.
4. Alcoholism long-term treatment service.
5. Alcoholism recovery house service.
6. Boarding home.
7. Group care facility.
8. Group care facility for severely and multiple handicapped children.
9. Residential treatment facility for psychiatrically impaired children and youth.

EXCEPTION: Where the care provided at an alcoholism detoxification service is acute care similar to that provided in a hospital, the facility shall be classified as a Group I-2 Occupancy.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0313, filed 12/17/03, effective 7/1/04.]

WAC 51-50-0419 Section 419—Group LC.

SECTION 419—GROUP LC.

419.1 General. Occupancies in Group LC shall comply with the provisions of this section and other applicable provisions of this code.

419.2 Area and height. Buildings classified as Group LC shall not exceed, in area or height, the limitations set forth in Table 503 for Group R-2 Occupancies.

EXCEPTION: Occupancies in Group LC licensed for six or fewer clients may be of unlimited area provided they are limited to 3 stories or less.

419.3 Exterior walls. For the purpose of determining required exterior wall and opening protection, LC Occupancies licensed for six or fewer clients shall comply with provisions for Group R-3 Occupancies; and all other LC Occupancies shall comply with provisions for Group R-2 Occupancies.

419.4 Mixed occupancies. The code provisions applicable to Group R-2 Occupancies shall apply to Group LC Occupancies for purposes of determining whether a building is permitted to comply with Section 302.3.1, Nonseparated Uses. Where the provisions of Section 302.3.2 are applied, occupancies in Group LC shall be separated from Group H Occupancies by a four-hour fire-resistive occupancy separation and shall be separated from all other occupancies by a one-hour fire-resistive assembly.

EXCEPTIONS:
1. An occupancy separation need not be provided between a Group LC Occupancy licensed for 16 or fewer clients and a carport having no enclosed use above, provided the carport is entirely open on two or more sides.
2. Private garages shall be separated from Group LC Occupancies and their attic areas by means of a minimum 1/2-inch (12.7 mm) gypsum board applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than 5/8-inch Type-X gypsum board or equivalent. Door openings between private garages and Group LC Occupancies shall be equipped with either solid wood doors, or solid or honeycomb core steel doors not less than 1 3/8 inches (34.9 mm) thick, or doors in compliance with Section 715.3.3. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted.
3. An occupancy separation need not be provided between a Group LC, Boarding Home Occupancy and a Group R-2 Occupancy.

419.5 Evacuation capability. Evacuation capability is the ability of the clients of a licensed care facility to respond to an emergency situation and either evacuate a building or move to a point of safety. Clients shall be classified in one of the following levels:

I - Persons physically and mentally capable of walking or traversing a normal path to safety, including the ascent and descent of stairs, and capable of self-preservation, without the physical assistance of another person.

II - Persons physically and mentally capable of traversing a normal path to safety with the use of mobility aids, but unable to ascend or descend stairs without the physical assistance of another person.

III - Persons physically or mentally unable to walk or traverse a normal path to safety without the physical assistance of another person.

419.6 Location of sleeping rooms. In every Group LC facility, all sleeping rooms occupied by clients with an evacuation capability of II or III shall be located on a grade level floor which provides not less than two means of egress which do not require clients to use stairs, elevator, or platform lift to exit the facility.

EXCEPTIONS: 1. In a Group LC Occupancy licensed to provide care to two or fewer clients with an evacuation capability of II or III and six or fewer total clients, only one means of egress which does not require clients to use stairs, elevator or platform lift to exit the facility need be provided.

2. Sleeping rooms for clients with an evacuation capability of II or III may be located on floors other than at grade level, provided the facility is divided into at least two compartments by smoke barriers.

419.7 Means of egress. Means of egress, including provisions for emergency escape and rescue, shall be provided as specified in Chapter 10. For requirements of Chapter 10, Group LC Occupancies licensed for six or fewer clients shall comply with provisions for Group R-3 Occupancies; and all other Group LC Occupancies shall comply with provisions for Group R-2 Occupancies.

EXCEPTIONS: 1. Means of egress illumination required by Section 1006 need not be provided in any Group LC Occupancy licensed for six or fewer clients.

2. In LC Occupancies with an approved automatic fire sprinkler system and approved automatic fire alarm system, waiting and resting areas may be open to the corridor provided:

2.1 Each rest area does not exceed 150 square feet, excluding the corridor width; and

2.2 Walls defining the space shall continue the construction of the corridor's wall; and

2.3 The floor on which the rest area or areas are located is divided into at least two compartments by smoke barriers; and

2.4 Combustible furnishings located within the rest area are flame resistant as defined by International Building Code Section 802; and

2.5 Emergency means of egress lighting is provided as required by Section 1006 to illuminate the area.

419.8 Accessibility. In new construction, Group LC Occupancies, regardless of the number of clients, shall comply with accessibility standards for Group R-2 apartment buildings or dormitories as specified in Chapter 11.

Where an occupancy in Group LC is being established by change of occupancy in an existing building, the building shall be altered to comply with apartment building or dormitory provisions of Chapter 11 if any client is a person with disability. The alterations shall provide the minimum necessary access appropriate for the disabilities of clients. Any alteration, whether to accommodate a client with disability or for another purpose, shall comply with Section 3409.

419.9 Lighting. Occupancies in Group LC shall be provided with light as required by Section 1205 for dwelling units and exterior stairways serving dwelling units.

419.10 Ventilation. Occupancies in Group LC shall comply with provisions for Group R Occupancies as provided in the Washington State Ventilation and Indoor Air Quality Code.

419.11 Ceiling heights. Habitable rooms, hallways, corridors, bathrooms, toilet rooms, laundry rooms and basements shall have a ceiling height of not less than 7 feet (2134 mm). The required height shall be measured from the finished floor to the lowest projection from the ceiling.

EXCEPTIONS: 1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height.

2. If any room in a building has a sloped ceiling, the prescribed ceiling height for the room is required in one-half the area thereof. Any portion of the room measuring less than 5 feet (1524 mm) from the finished floor to the ceiling shall not be included in any computation of the minimum area thereof.

3. Mezzanines constructed in accordance with Section 505.1.

419.12 Sprinkler systems. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group LC fire area.

EXCEPTION: An automatic sprinkler system need not be installed if the licensed care facility is licensed for six or fewer clients.

419.13 Fire alarm systems. Group LC Occupancies licensed for more than 16 clients shall be provided with an approved manual and automatic fire alarm system complying with NFPA 72.

419.14 Single- and multiple-station smoke alarms. Listed single- and multiple-station smoke alarms shall be installed in accordance with the provisions of this code and the household fire-warning equipment provisions of NFPA 72.

419.14.1 Where required. Single- or multiple-station smoke alarms shall be installed and maintained in Group LC, regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

2. In each room used for sleeping purposes.

3. In each story, including basements but not including crawl spaces and uninhabitable attics. In buildings with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

419.14.2 Power source. In new construction, required smoke alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

419.14.3 Interconnection. Where more than one smoke alarm is required to be installed within an individual Group LC Occupancy, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the Group LC Occupancy. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

419.14.4 Additions, alterations or repairs. When the valuation of an addition, alteration or repair to a Group LC Occupancy exceeds $1,000 and a permit is required, or when one or more sleeping rooms is added or created in an existing Group LC Occupancy, smoke alarms shall be installed in accordance with Sections 419.14.1 and 419.14.2.

EXCEPTION: Repairs to the exterior surfaces are exempt from the requirements of this section.

419.15 Sanitation.

419.15.1 General. Sanitation facilities shall comply with Chapter 29 and the provisions of this section. Any room in which a water closet is located shall be separated from food preparation or storage rooms by a self-closing tight-fitting door.

419.15.2 Group LC Occupancies with six or fewer clients. Group LC Occupancies licensed for six or fewer clients shall be provided with not less than one water closet, one lavatory and one bathtub or shower.

419.15.3 Group LC Occupancies with more than six clients. Group LC Occupancies licensed for more than six clients shall provide not less than one water closet for each 10 male clients, or fractional part thereof, and not less than one water closet for each 8 female clients, or fractional part thereof.

In addition, not less than one lavatory shall be provided for each 12 male clients, or fractional part thereof, and not less than one lavatory for each 12 female clients, or fractional part thereof. Where the number of clients of either sex exceeds 12, one lavatory shall be added for each additional 20 males, or fractional part thereof, and one lavatory shall be added for each additional 15 females, or fractional part thereof.

In addition, not less than one bathtub or shower shall be provided for every eight clients, or fractional part thereof. Where there are female clients, one additional bathtub or shower shall be provided for each 30 female clients, or fractional part thereof. Where the number of total clients exceeds 150, one bathtub or shower shall be provided for each 20 clients, or fractional part thereof, over 150 clients.

419.16 Concealed spaces. Fireblocking and draftstopping shall be installed in occupancies in Group LC in accordance with the provisions of Section 717 applicable to Group R-2.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0419, filed 12/17/03, effective 7/1/04.]

WAC 51-50-0707 Section 707—Shaft enclosures.

707.14.1 Elevator lobby. Elevators opening into a fire-resistance-rated corridor as required by Section 1016.1 shall be provided with an elevator lobby at each floor containing such a corridor. The lobby shall separate the elevators from the corridor by fire partitions and the required opening protection. Elevator lobbies shall have at least one means of egress complying with Chapter 10 and other provisions within this code.

EXCEPTIONS: 1. In office buildings, separations are not required from a street-floor elevator lobby provided the entire street floor is equipped with an automatic sprinkler system in accordance with Section 903.3.1.1.

2. Elevators not required to be located in a shaft in accordance with Section 707.2.

3. Where additional doors are provided in accordance with Section 3002.6. Such doors shall be tested in accordance with UL 1784 without an artificial bottom seal.

4. In other than Group I-3, and buildings more than four stories above the lowest level of fire department vehicle access, lobby separation is not required where the building, including the lobby and corridors leading to the lobby, is protected by an automatic sprinkler system installed throughout in accordance with Section 903.3.1.1 or 903.3.1.2.

5. In fully sprinklered buildings where elevator and stair shafts are pressurized in accordance with Section 909, elevator lobbies need not be provided. The pressurized stair shafts shall comply with the standards for elevator shaft pressurization in Section 909.6.3.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0707, filed 12/17/03, effective 7/1/04.]

WAC 51-50-0902 Section 902—Definitions.

902.1 Definitions.

PORTABLE SCHOOL CLASSROOM. A structure, transportable in one or more sections, which requires a chassis to be transported, and is designed to be used as an educational space with or without a permanent foundation. The structure shall be trailerable and capable of being demounted and relocated to other locations as needs arise.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0902, filed 12/17/03, effective 7/1/04.]

WAC 51-50-0903 Section 903—Automatic sprinkler systems.

903.2.1.2 Group A-2. An automatic sprinkler system shall be provided for Group A-2 Occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (464.5 m^2).
2. The fire area has an occupant load of 100 or more.
3. The fire area is located on a floor other than the level of exit discharge.

903.2.2 Group E. An automatic sprinkler system shall be provided for Group E Occupancies as follows:

1. Throughout all Group E fire areas greater than 20,000 square feet (1858 m^2) in area.

2. Throughout every portion of educational buildings below the level of exit discharge.

EXCEPTION: An automatic sprinkler system is not required in any fire area or area below the level of exit discharge where every classroom throughout the building has at least one exterior exit door at ground level.

3. Throughout all newly constructed Group E Occupancies having an occupant load of 50 or more for more than 12 hours per week or four hours in any one day. A minimum water supply meeting the requirements of NFPA 13 shall be required. The fire code official may reduce fire flow requirements for buildings protected by an approved automatic sprinkler system.

For the purpose of this section, additions exceeding 60 percent of the value of such building or structure, or alterations and repairs to any portion of a building or structure within a twelve-month period that exceeds 100 percent of the value of such building or structure shall be considered new construction. In the case of additions, fire walls shall define separate buildings.

EXCEPTIONS: 1. Portable school classrooms, provided aggregate area of clusters of portable school classrooms does not exceed 5,000 square feet (1465 m^2); and clusters of portable school classrooms shall be separated as required in Chapter 5 of the building code.

2. Group E day care.

When not required by other provisions of this chapter, a fire-extinguishing system installed in accordance with NFPA

13 may be used for increases and substitutions allowed in Section 504.2, 506.3, and Table 601 of the building code.

903.2.10.3 Buildings over 75 feet in height. An automatic sprinkler system shall be installed throughout buildings with a floor level having an occupant load of 30 or more that is located 75 feet (22 860 mm) or more above the lowest level of fire department vehicle access.

EXCEPTIONS: 1. Airport control towers.
2. Open parking structures.
3. Occupancies in Group F-2.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0903, filed 12/17/03, effective 7/1/04.]

WAC 51-50-0909 Section 909—Smoke control systems.

909.6.3 Elevator shaft pressurization. Where elevator shaft pressurization is required to comply with Exception 5 of Section 707.14.1, the pressurization system shall comply with the following.

909.6.3.1 Standards and testing. Elevator shafts shall be pressurized to not less than 0.10 inch water column relative to atmospheric pressure. Elevator pressurization shall be measured with the elevator cars at the designated primary recall level with the doors in the open position. The test shall be conducted at the location of the calculated maximum positive stack effect in the elevator shaft. The measured pressure shall be sufficient to provide 0.10 inch of water column as well as accounting for the stack and wind effect expected on the mean low temperature January day.

909.6.3.2 Activation. The elevator shaft pressurization system shall be activated by a fire alarm system which shall include smoke detectors or other approved detectors located near the elevator shaft on each floor as approved by the building official and fire chief. If the building has a fire alarm panel, detectors shall be connected to, with power supplied by, the fire alarm panel.

909.6.3.3 Separation. Elevator shaft pressurization equipment and its ductwork located within the building shall be separated from other portions of the building by construction equal to that required for the elevator shaft.

909.6.3.4 Location of intakes. Elevator shaft pressurization air intakes shall be located in accordance with Section 909.10.3. Such intakes shall be provided with smoke detectors which upon detection of smoke, shall deactivate the pressurization fan supplied by that air intake.

909.6.3.5 Power system. The power source for the fire alarm system and the elevator shaft pressurization system shall be in accordance with Section 909.11.

909.6.3.6 Hoistway venting. Hoistway venting required by Section 3004 need not be provided for pressurized elevator shafts.

909.6.3.7 Machine rooms. Elevator machine rooms required to be pressurized by Section 3006.3 need not be pressurized where separated from the hoistway shaft by construction in accordance with Section 707.

909.6.3.8 Special inspection. Special inspection shall be required in accordance with Section 909.18.8.3 and Section 1704.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0909, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1008 Section 1008—Doors, gates and turnstiles.

1008.1.2 Door swing. Egress doors shall be side-hinged swinging.

EXCEPTIONS: 1. Private garages, office areas, factory and storage areas with an occupant load of 10 or less.
2. Group I-3 Occupancies used as a place of detention.
3. Doors within or serving a single dwelling unit in Groups R-2 and R-3 as applicable in Section 101.2.
4. In other than Group H Occupancies, revolving doors complying with Section 1008.1.3.1.
5. In other than Group H Occupancies, horizontal sliding doors complying with Section 1008.1.3.3 are permitted as a means of egress.
6. Power-operated doors in accordance with Section 1008.1.3.1.

Doors shall swing in the direction of egress travel where serving an occupant load of 50 or more persons or a Group H Occupancy.

The opening force for interior side-swinging doors without closers shall not exceed a 5-pound force. For other side-swinging, sliding, and folding doors, the door latch shall release when subjected to a 15-pound force. The door shall be set in motion when subjected to a 30-pound force. The door shall swing to a full-open position when subjected to a 15-pound force. Forces shall be applied to the latch side. Within an accessible route, at exterior doors where environmental conditions require a closing pressure greater than 8.5 pounds, power operated doors shall be used within the accessible route of travel.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1008, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1009 Section 1009—Stairways and handrails.

1009.13 Stairs or ladders within an individual dwelling unit used to gain access to areas of 200 square feet (18.6 m^2) or less, and not containing the primary bathroom or kitchen, are exempt from the requirements of Section 1009.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1009, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1010 Section 1010—Ramps.

1010.8 Handrails. Ramps with a rise greater than 6 inches (152 mm) shall have handrails on both sides complying with Section 1009.11. At least one handrail shall extend in the direction of ramp run not less than 12 inches (305 mm) horizontally beyond the top and bottom of the ramp runs.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1010, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1024 Section 1024—Assembly.

1024.11 Assembly aisle walking surfaces. Aisles with a slope not exceeding one unit vertical in eight units horizontal (12.5-percent slope) shall consist of a ramp having a slip-

resistant walking surface. Aisles with a slope exceeding one unit vertical in eight units horizontal (12.5-percent slope) shall consist of a series of risers and treads that extends across the full width of aisles and complies with Sections 1024.11.1 through 1024.11.3.

EXCEPTION: When provided with fixed seating, aisles in Group A-1 Occupancies shall be permitted to have a slope not steeper than one unit vertical in five units horizontal (20-percent slope).

1024.13 Handrails. Ramped aisles having a slope exceeding one unit vertical in 15 units horizontal (6.7-percent slope) and aisle stairs shall be provided with handrails located either at the side or within the aisle width.

EXCEPTIONS: 1. Handrails are not required for ramped aisles having a gradient no greater than one unit vertical in five units horizontal (20-percent slope) and seating on both sides.
2. Handrails are not required if, at the side of the aisle, there is a guard that complies with the graspability requirements of handrails.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1024, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1101 Section 1101—General.

1101.2 Design. Buildings and facilities shall be designed and constructed to be accessible in accordance with this code and ICC A117.1, except those portions of ICC A117.1 amended by this section.

1101.2.1 (ICC A117.1 Section 403) Landings for walking surfaces. The maximum rise for any run is 30 inches (762 mm). Landings shall be provided at the top and bottom of any run. Landings shall be level and have a minimum dimension measured in the direction of travel of not less than 60 inches (1525 mm).

1101.2.2 (ICC A117.1 Section 403.5) Clear width of accessible route. Clear width of an accessible route shall comply with ICC A117.1 Table 403.5. For exterior routes of travel, the minimum clear width shall be 44 inches (1118 mm).

1101.2.3 (ICC A117.1 Section 404.2.9) Door-opening force. Fire doors shall have the minimum opening force allowable by the appropriate administrative authority. The maximum force for pushing open or pulling open doors other than fire doors shall be as follows:

1. Interior hinged door: 5.0 pounds (22.2 N)
2. Sliding or folding doors: 5.0 pounds (22.2 N)

At exterior doors where environmental conditions require a closing pressure greater than 8.5 pounds, power operated doors shall be used within the accessible route of travel.

These forces do not apply to the force required to retract latch bolts or disengage other devices that hold the door in a closed position.

1101.2.4 (ICC A117.1 Section 502.6) Identification of accessible parking spaces. Where accessible parking spaces are required to be identified by signs, the signs shall include the International Symbol of Accessibility complying with ICC A117.1 Section 703.7. Such signs shall be 60 inches (1525 mm) minimum above the floor or ground surface of the parking space, measured to the bottom of the sign. Van accessible parking spaces shall have an additional sign mounted below the International Symbol of Accessibility identifying the spaces as "Van Accessible."

1101.2.5 (ICC A117.1 Section 603.4) Coat hooks, shelves, dispensers, and other fixtures. Coat hooks provided within toilet rooms shall accommodate a forward reach or side reach complying with ICC A117.1 Section 308. Where provided, shelves shall be installed so that the top of the shelf is 40 inches (1015 mm) maximum above the floor or ground. Drying equipment, towel or other dispensers, and disposal fixtures shall be located 40 inches (1015 mm) maximum above the floor or ground to any rack, operating controls, receptacle or dispenser.

1101.2.6 (ICC A117.1 Section 604.6) Flush controls. Flush controls shall be hand operated or automatic. Hand operated flush controls for water closets shall be mounted for use from the wide side of the water closet area and not more than 44 inches (1118 mm) above the floor.

1101.2.7 (ICC A117.1 Section 604.7) Toilet paper dispensers. Toilet paper dispensers shall comply with ICC A117.1 Section 309.4 and shall be 7 inches (180 mm) minimum and 9 inches (230 mm) maximum in front of the water closet. The outlet of the dispenser shall be 15 inches (380 mm) minimum and 48 inches (1015 mm) maximum above the floor or ground. There shall be a clearance of 1 1/2 inches (38 mm) minimum below and 12 inches (305 mm) minimum above the grab bar. Dispensers shall not be of a type that control delivery, or that do not allow continuous paper flow. Other dispensers, and disposal fixtures shall be located 40 inches (1015 mm) maximum above the floor or ground to any rack, operating controls, receptacle or dispenser.

1101.2.8 (ICC A117.1 Section 609.2) Grab bars size. Grab bars shall have an outside diameter of not less than 1 1/4 inch (32 mm) nor more than 1 1/2 inches (38 mm) and shall provide a clearance of 1 1/2 inches (38 mm) between the grab bar and the wall.

1101.2.9 (ICC A117.1 Section 703.7.2.1) International Symbol of Accessibility. Where the International Symbol of Accessibility is required, it shall be proportioned complying with ICC A117.1 Figure 703.7.2.1. All interior and exterior signs depicting the International Symbol of Accessibility shall be white on a blue background.

1101.2.10 (ICC A117.1 Section 802.8) Lines of sight. Wheelchair spaces shall be located in places with unobstructed sight lines.

1101.2.11 (ICC A117.1 Section 404.3.5) Control switches. Control switches shall be mounted 36 inches above the floor and not less than 18 inches nor more than 36 inches horizontally from the nearest point of travel of the moving doors.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1101, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1103 Section 1103—Scoping requirements.

1103.2.15 Modifications. Where full compliance with this chapter is impractical due to unique characteristics of the terrain, the building official is permitted to grant modifications

in accordance with Section 104.10, provided that any portion of the building or structure that can be made accessible shall be made accessible to the greatest extent practical.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1103, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1104 Section 1104—Accessible route.

1104.4 Multilevel buildings and facilities. At least one accessible route shall connect each accessible level, including mezzanines, in multilevel buildings and facilities.

EXCEPTIONS: 1. An accessible route is not required to stories and mezzanines above and below accessible levels that have an aggregate area of not more than 3,000 square feet. This exception shall not apply to:
1.1 Multiple tenant facilities of Group M Occupancies containing five or more tenant spaces;
1.2 Levels containing offices of health care providers (Group B or I);
1.3 Passenger transportation facilities and airports (Group A-3 or B);
1.4 Buildings owned or leased by government agencies.
2. In Group A, I, R and S Occupancies, levels that do not contain accessible elements or other spaces required by Section 1107 or 1108 are not required to be served by an accessible route from an accessible level.
3. In air traffic control towers, an accessible route is not required to serve the cab and floor immediately below the cab.
4. Where a two-story building or facility has one story with an occupant load of five or fewer persons that does not contain public use space, that story shall not be required to be connected by an accessible route to the story above or below.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1104, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1105 Section 1105—Accessible entrances.

1105.1 Public entrances. In addition to accessible entrances required by Sections 1105.1.1 through 1105.1.6, at least 50 percent of all public entrances shall be accessible. All exterior exits that are located adjacent to accessible areas and within 6 inches (152 mm) of grade shall be accessible.

EXCEPTIONS: 1. An accessible entrance is not required in areas not required to be accessible.
2. Loading and service entrances that are not the only entrance to a tenant space.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1105, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1106 Section 1106—Parking and passenger loading facilities.

1106.3 Outpatient medical care facilities. For Group I-1 and I-2 Occupancies providing outpatient medical care facilities, 10 percent, but not less than one, of the parking spaces provided accessory to such occupancies shall be accessible.

1106.4 Inpatient and outpatient medical care facilities. For Group I-1 and I-2 units and facilities specializing in the treatment of persons with mobility impairments on either an inpatient or outpatient basis, 20 percent, but not less than one, of the parking spaces provided accessory to such units and facilities shall be accessible.

1106.6 Location. Accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance. Accessible parking spaces shall be dispersed among the various types of parking facilities provided. In parking facilities that do not serve a particular building, accessible parking spaces shall be located on the shortest route to an accessible pedestrian entrance to the parking facility. Where buildings have multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances. Wherever practical, the accessible route of travel shall not cross lanes of vehicular traffic. Where crossing traffic lanes is necessary, the route of travel shall be designated and marked as a crosswalk.

EXCEPTION: In multilevel parking structures, van accessible parking spaces are permitted on one level.

1106.7.4 Sheltered entrance. In Group I-2 Occupancies, at least one accessible entrance that complies with Section 1105 shall be under shelter. Every such entrance shall include a passenger loading zone that complies with Section 1106.7.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1106, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1107 Section 1107—Dwelling units and sleeping units.

1107.6 Group R. Occupancies in Group R shall be provided with accessible features in accordance with Sections 1107.6.1 through 1107.6.4. Accessible and Type A units shall be apportioned among efficiency dwelling units, single bedroom units and multiple bedroom units, in proportion to the numbers of such units in the building. Accessible hotel guest rooms shall be apportioned among the various classes of sleeping accommodations.

1107.6.2.1.1 Type A units. In occupancies in Group R-2 containing more than 10 dwelling units or sleeping units, at least 5 percent, but not less than one, of the units shall be a Type A unit. All units on a site shall be considered to determine the total number of units and the required number of Type A units. Type A units shall be dispersed among the various classes of units.

EXCEPTIONS: 1. The number of Type A units is permitted to be reduced in accordance with Section 1107.7.
2. Existing structures on a site shall not contribute to the total number of units on a site.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1107, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1109 Section 1109—Other features and facilities.

1109.2 Toilet and bathing facilities. Toilet rooms and bathing facilities shall be accessible. Where a floor level is not required to be connected by an accessible route, the only toilet rooms or bathing facilities provided within the facility shall not be located on the inaccessible floor. At least one of each type of fixture, element, control or dispenser in each accessible toilet room and bathing facility shall be accessible.

EXCEPTIONS: 1. In toilet rooms or bathing facilities accessed only through a private office, not for common or public use, and intended for use by a single occupant, any of the following alternatives are allowed:
1.1 Doors are permitted to swing into the clear floor space provided the door swing can be reversed to meet the requirements in ICC A117.1;

1.2 The height requirements for the water closet in ICC A117.1 are not applicable;
1.3 Grab bars are not required to be installed in a toilet room, provided that reinforcement has been installed in the walls and located so as to permit the installation of such grab bars; and
1.4 The requirement for height, knee and toe clearance shall not apply to a lavatory.
2. This section is not applicable to toilet and bathing facilities that serve dwelling units or sleeping units that are not required to be accessible by Section 1107.
3. Where multiple single-user toilet rooms or bathing facilities are clustered at a single location and contain fixtures in excess of the minimum required number of plumbing fixtures, at least 5 percent, but not less than one room for each use at each cluster, shall be accessible.
4. Toilet room fixtures that are in excess of those required by the State Building Code and that are designed for use by children in day care and primary school occupancies.
5. Where no more than one urinal is provided in a toilet room or bathing facility, the urinal is not required to be accessible.
6. Toilet rooms that are part of critical care or intensive care patient sleeping rooms are not required to be accessible.
7. In dwelling units where a separate bathtub and shower are provided in the same room, at least one shall be accessible.

1109.5 Drinking fountains. On floors where drinking fountains are provided, at least 50 percent, but not less than one fountain, shall be accessible. At least one fountain shall be mounted at a standard height.

1109.6 Elevators. Passenger elevators on an accessible route shall be accessible and comply with ICC A117.1. Elevators required to be accessible shall be designed and constructed to comply with chapter 296-96 of the Washington Administrative Code.

1109.9 Detectable warnings. Passenger transit platform edges bordering a drop-off and not protected by platform screens or guards shall have a detectable warning. Curb ramps shall have detectable warnings. Detectable warnings shall extend the full width and depth of the curb ramp.

EXCEPTION: Detectable warnings are not required at bus stops.

1109.12.2 Check-out aisles. Where check-out aisles are provided, accessible check-out aisles shall be provided in accordance with Table 1109.12.2. Where check-out aisles serve different functions, at least one accessible check-out aisle shall be provided for each function. Where check-out aisles serve different functions, accessible check-out aisles shall be provided in accordance with Table 1109.12.2 for each function. Where check-out aisles are dispersed throughout the building or facility, accessible check-out aisles shall also be dispersed. Traffic control devices, security devices and turnstiles located in accessible check-out aisles or lanes shall be accessible. Accessible check-out aisles shall be identified by the International Symbol of Accessibility in accordance with ICC A117.1 Section 703.7.2.1.

EXCEPTION: Where the area of the selling space is less than 5,000 square feet (465 m^2), only one check-out aisle is required to be accessible.

1109.14.3 Other occupancies. All recreational facilities not falling within the purview of Section 1109.14.1 or 1109.14.2 shall be accessible as required by the Americans with Disabilities Act Accessibility Guidelines.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1109, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1203 Section 1203—Ventilation.

1203.1 General. Buildings shall be provided with natural ventilation in accordance with Section 1203.4, or mechanical ventilation in accordance with the *International Mechanical Code* and the Washington State Ventilation and Indoor Air Quality Code.

1203.4 Natural ventilation. For other than Group R Occupancies in buildings four stories and less, natural ventilation of an occupied space shall be through windows, doors, louvers or other openings to the outdoors. The operating mechanism for such openings shall be provided with ready access so that the openings are readily controllable by the building occupants. Group R Occupancies in buildings four stories and less shall comply with the Washington State Ventilation and Indoor Air Quality Code.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1203, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1204 Section 1204—Temperature control.

1204.2.1 Definitions. For the purposes of this section only, the following definitions apply.

DESIGNATED AREAS are those areas designated by a county to be an urban growth area in chapter 36.70A RCW and those areas designated by the U.S. Environmental Protection Agency as being in nonattainment for particulate matter.

SUBSTANTIALLY REMODELED means any alteration or restoration of a building exceeding 60 percent of the appraised value of such building within a 12-month period. For the purpose of this section, the appraised value is the estimated cost to replace the building and structure in-kind, based on current replacement costs.

1204.2.2 Primary heating source. Primary heating sources in all new and substantially remodeled buildings in designated areas shall not be dependent upon wood stoves.

1204.2.3 Solid fuel burning devices. No used solid fuel burning device shall be installed in new or existing buildings unless such device is United States Environmental Protection Agency certified or a pellet stove either certified or exempt from certification by the United States Environmental Protection Agency.

EXCEPTION: Antique wood cook stoves and heaters manufactured prior to 1940.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1204, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1208 Section 1208—Interior space dimensions.

1208.2 Minimum ceiling heights. Occupiable spaces, habitable spaces and corridors shall have a ceiling height of not less than 7 feet 6 inches (2286 mm). Bathrooms, toilet rooms, kitchen, storage rooms and laundry rooms shall be permitted to have a ceiling height of not less than 7 feet (2134 mm).

EXCEPTIONS: 1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height.

2. If any room in a building has a sloped ceiling, the prescribed ceiling height for the room is required in one-half the area thereof. Any portion of the room measuring less than 5 feet (1524 mm) from the finished floor to the ceiling shall not be included in any computation of the minimum area thereof.
3. Mezzanines constructed in accordance with Section 505.1.
4. Residential Group R Occupancies shall be permitted to have a ceiling height of not less than 7 feet (2134 mm).

1208.3 Room area. Every dwelling unit shall have at least one room that shall have not less than 120 square feet (13.9 m^2) of net floor area. Other habitable rooms shall have a net floor area of not less than 70 square feet (6.5 m^2).

EXCEPTION: Every kitchen in a one- and two-family dwelling shall have not less than 50 square feet (4.64 m^2) of gross floor area.

Portions of a room with a sloped ceiling measuring less than 5 feet (1524 mm) or a flat ceiling measuring less than 7 feet (2134 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum habitable area for that room.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1208, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1702 Section 1702—Definitions.

1702.1 General.

STRUCTURAL OBSERVATION. The visual observation of the structural system by a registered design professional for general conformance to the approved construction documents. Structural observation does not include or waive the responsibility for the inspection required by Section 109, 1704, or other sections of this code.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1702, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1709 Section 1709—Structural observations.

1709.1 Structural observations. Structural observations shall be provided for those structures included in Seismic Design Category D, E or F, as determined in Section 1616, where one or more of the following conditions exist:

1. The structure is included in Seismic Use Group II or III.

2. The height of the structure is greater than 75 feet (22 860 mm) above the base.

3. The structure is in Seismic Design Category E and Seismic Use Group I and greater than two stories in height.

4. When so designated by the registered design professional in responsible charge of the design.

5. When such observation is specifically required by the building official for unusual lateral force-resisting structures or irregular structures as defined in Section 1616.

Structural observations shall also be provided for those structures sited where the basic wind speed exceeds 110 mph (49 m/sec) determined from Figure 1609, where one or more of the following conditions exist:

1. The structure is included in Category III or IV according to Table 1604.5.

2. The height of the structure is greater than 75 feet (22 860 mm).

3. When so designated by the registered design professional in responsible charge of the design.

4. When such observation is specifically required by the building official for unusual main windforce-resisting structures.

The owner shall employ a registered design professional to perform structural observations as defined in Section 1702.

Deficiencies shall be reported in writing to the owner and the building official. At the conclusion of the work included in the permit, the structural observer shall submit to the building official a written statement that the site visits have been made and identify any reported deficiencies which, to the best of the structural observer's knowledge, have not been resolved.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1709, filed 12/17/03, effective 7/1/04.]

WAC 51-50-2114 Section 2114—Emission standards.

2114.1 Emission Standards for Factory-built Fireplaces. After January 1, 1997, no new or used factory-built fireplace shall be installed in Washington state unless it is certified and labeled in accordance with procedures and criteria specified in the Washington State Building Code Standard 31-2.

To certify an entire fireplace model line, the internal assembly shall be tested to determine its particulate matter emission performance. Retesting and recertifying is required if the design and construction specifications of the fireplace model line internal assembly change. Testing for certification shall be performed by a Washington state department of ecology (DOE) approved and U.S. Environmental Protection Agency (EPA) accredited laboratory.

2114.2 Emission Standards for Certified Masonry and Concrete Fireplaces. After January 1, 1997, new certified masonry or concrete fireplaces installed in Washington state shall be tested and labeled in accordance with procedures and criteria specified in the Washington State Building Code Standard 31-2.

To certify an entire fireplace model line, the internal assembly shall be tested to determine its particulate matter emission performance. Retesting and recertifying is required if the design and construction specifications of the fireplace model line internal assembly change. Testing for certification shall be performed by a Washington state department of ecology (DOE) approved and U.S. Environmental Protection Agency (EPA) accredited laboratory.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-2114, filed 12/17/03, effective 7/1/04.]

WAC 51-50-2900 Chapter 29—Plumbing systems.

SECTION 2901—PLUMBING CODE.

Plumbing systems shall comply with the Plumbing Code.

SECTION 2902—GENERAL.

2902.1 Number of fixtures.

2902.1.1 Requirements. Plumbing fixtures shall be provided in the minimum number shown in Table 2902.1 and in this chapter. Where the proposed occupancy is not listed in Table

2902.1, the building official shall determine fixture requirements based on the occupancy which most nearly resembles the intended occupancy.

Plumbing fixtures need not be provided for unoccupied buildings or facilities.

2902.1.2 Private offices. Fixtures only accessible to private offices shall not be counted to determine compliance with this section.

2902.1.3 Occupancy load distribution. The occupant load shall be divided equally between the sexes, unless data approved by the building official indicates a different distribution of the sexes.

2902.1.4 Food preparation areas. In food preparation, serving and related storage areas, additional fixture requirements may be dictated by health codes.

2902.1.5 Other requirements. For other requirements for plumbing facilities, see Sections 419.15 and 1210 and Chapter 11.

2902.2 Access to fixtures.

2902.2.1 Location. Plumbing fixtures shall be located in each building or conveniently in a building adjacent thereto on the same property.

2902.2.2 Multiple tenants. Access to toilets serving multiple tenants shall be through a common use area and not through an area controlled by a tenant.

2902.2.3 Multistory buildings. Required fixtures shall not be located more than one vertical story above or below the area served.

2902.3 Separate facilities.

2902.3.1 Requirements. Separate toilet facilities shall be provided for each sex.

EXCEPTIONS: 1. In occupancies serving 10 or fewer persons, one toilet facility designed for use by no more than one person at a time shall be permitted for use by both sexes.
2. In Group B and M Occupancies with a total floor area of 1500 square feet (139.5 m^2) or less, one toilet facility designed for use by no more than one person at a time shall be permitted for use by both sexes.

2902.3.2 Food service establishments. When customers and employees share the same facilities, customers accessing the facilities are excluded from food preparation and storage areas.

2902.4 Pay facilities. Required facilities shall be free of charge. Where pay facilities are installed, they shall be in addition to the minimum required facilities.

2902.5 is not adopted.

2902.6 is not adopted.

SECTION 2903—SPECIAL PROVISIONS.

2903.1 Dwelling units. Dwelling units shall be provided with a kitchen sink.

2903.2 Water closet space requirements. The water closet stool in all occupancies shall be located in a clear space not less than 30 inches (762 mm) in width, with a clear space in front of the stool of not less than 24 inches (610 mm).

2903.3 Water. Each required sink, lavatory, bathtub and shower stall shall be equipped with hot and cold running water necessary for its normal operation.

2903.4 Drinking fountains.

2903.4.1 Number. Occupant loads over 30 shall have one drinking fountain for the first 150 occupants, then one per each additional 500 occupants.

EXCEPTIONS: 1. Sporting facilities with concessions serving drinks shall have one drinking fountain for each 1000 occupants.
2. A drinking fountain need not be provided in a drinking or dining establishment.

2903.4.2 Multistory buildings. Drinking fountains shall be provided on each floor having more than 30 occupants in schools, dormitories, auditoriums, theaters, offices and public buildings.

2903.4.3 Penal institutions. Penal institutions shall have one drinking fountain on each cell block floor and one on each exercise floor.

2903.4.4 Location. Drinking fountains shall not be located in toilet rooms.

TABLE 2902.1—MINIMUM PLUMBING FIXTURES[1,2,4,6]

TYPE OF BUILDING OR OCCUPANCY	WATER CLOSETS (fixtures per person) MALE[3]	WATER CLOSETS (fixtures per person) FEMALE	LAVATORIES[5] (fixtures per person) MALE	LAVATORIES[5] (fixtures per person) FEMALE	BATHTUB OR SHOWER (fixtures per person)
For the occupancies listed below, use 30 square feet (2.79 m^2) per occupant for the minimum number of plumbing fixtures.					
Group A Conference rooms, dining rooms, drinking establishments, exhibit rooms, gymnasiums, lounges, stages and similar uses including restaurants classified as Group B Occupancies	1:1-25 2:26-75 3:76-125 4:126-200 5:201-300 6:301-400 Over 400, add one fixture for each additional 200 males or 150 females	1:1-25 2:26-75 3:76-125 4:126-200 5:201-300 6:301-400	One per 2 water closets		
For the assembly occupancies listed below, use the number of fixed seating or, where no fixed seating is provided, use 15 square feet (1.39 m^2) per occupant for the minimum number of plumbing fixtures.					

TABLE 2902.1—MINIMUM PLUMBING FIXTURES[1,2,4,6]

TYPE OF BUILDING OR OCCUPANCY	WATER CLOSETS (fixtures per person) MALE[3]	WATER CLOSETS (fixtures per person) FEMALE	LAVATORIES[5] (fixtures per person) MALE	LAVATORIES[5] (fixtures per person) FEMALE	BATHTUB OR SHOWER (fixtures per person)
Assembly places—Theaters, auditoriums, convention halls, dance floors, lodge rooms, casinos, and such places which have limited time for fixture use (intermissions)	1:1-100 2:101-200 3:201-400 Over 400, add one fixture for each additional 250 males or 50 females	One per 25 Up to 400	1:1-200 2:201-400 3:401-750 Over 750, add one fixture for each additional 500 persons	1:1-200 2:201-400 3:401-750	
Assembly places—Stadiums, arena and other sporting facilities where fixture use is not limited to intermissions	1:1-100 2:101-200 3:201-400 Over 400, add one fixture for each additional 300 males or 100 females	One per 50 Up to 400	1:1-200 2:201-400 3:401-750 Over 750, add one fixture for each additional 500 persons	1:1-200 2:201-400 3:401-750	
For the assembly occupancies listed below, use the number of fixed seating or, where no fixed seating is provided, use 30 square feet (2.79 m^2) per occupant for the minimum number of plumbing fixtures.					
Worship places Principal assembly area Educational & activity unit	 One per 150 One per 125	 One per 75 One per 75	 One per 2 water closets One per 2 water closets		
For the occupancies listed below, use 200 square feet (18.58 m^2) per occupant for the minimum number of plumbing fixtures.					
Group B and other clerical or administrative employee accessory use	1:1-15 2:16-35 3:36-55 Over 55, add one for each additional 50 persons	1:1-15 2:16-35 3:36-55	One per 2 water closets		
For the occupancies listed below, use 100 square feet (9.3 m^2) per student for the minimum number of plumbing fixtures.					
Group E Schools - for staff use All schools (One staff per 20 students) Schools - student use Day care Elementary Secondary	1:1-15 2:16-35 3:36-55 Over 55, add one fixture for each additional 40 persons 1:1-20 2:21-50 Over 50, add one fixture for each additional 50 persons One per 30 One per 40	1:1-15 2:16-35 3:36-55 1:1-20 2:21-50 One per 25 One per 30	One per 2 water closets 1:1-20 2:21-50 Over 50, add one fixture for each additional 50 persons One per 2 water closets One per 2 water closets	 1:1-20 2:21-50 	
For the occupancies listed below, use 50 square feet (4.65 m^2) per occupant for the minimum number of plumbing fixtures.					
Education facilities other than Group E Others (colleges, universities, adult centers, etc.)	 One per 40	 One per 25	 One per 2 water closets		
For the occupancies listed below, use 2,000 square feet (185.8 m^2) per occupant for the minimum number of plumbing fixtures.					
Group F and Group H Workshop, foundries and similar establishments, and hazardous occupancies	1:1-10 2:11-25 3:26-50 4:51-75 5:76-100 Over 100, add one fixture for each additional 30 persons	1:1-10 2:11-25 3:26-50 4:51-75 5:76-100	One per 2 water closets		One shower for each 15 persons exposed to excessive heat or to skin contamination with irritating materials
For the occupancies listed below, use the designated application and 200 square feet (18.58 m^2) per occupant of the general use area for the minimum number of plumbing fixtures.					

TABLE 2902.1—MINIMUM PLUMBING FIXTURES[1,2,4,6]

TYPE OF BUILDING OR OCCUPANCY	WATER CLOSETS (fixtures per person) MALE[3]	WATER CLOSETS (fixtures per person) FEMALE	LAVATORIES[5] (fixtures per person) MALE	LAVATORIES[5] (fixtures per person) FEMALE	BATHTUB OR SHOWER (fixtures per person)
Group I[7]					
Hospital waiting rooms	One per room (usable by either sex)		One per room		
Hospital general use areas	1:1-15 2:16-35 3:36-55 Over 55, add one fixture for each additional 40 persons	1:1-15 3:16-35 3:36-55	One per 2 water closets		
Hospital patient rooms:					
Single Bed	One adjacent to and directly accessible from		One per toilet room		One per toilet room
Isolation	One adjacent to and directly accessible from		One per toilet room		One per toilet room
Multibed	One per 4 patients		One per 4 patients		One per 8 patients
Long-term	One per 4 patients		One per 4 patients		One per 15 patients
Jails and reformatories					
Cell	One per cell		One per cell		
Exercise room	One per exercise room		One per exercise room		
Other institutions (on each occupied floor)	One per 25	One per 25	One per 2 water closets		One per 8
Group LC	For Group LC Occupancies, the minimum number of plumbing fixtures is specified in Section 419.15.				
For the occupancies listed below, use 200 square feet (18.58 m^2) per occupant for the minimum number of plumbing fixtures.					
Group M					
Retail or wholesale stores	1:1-50 2:51-100 3:101-400 Over 400, add one fixture for each additional 300 males or 150 females	1:1-50 2:51-100 3:101-200 4:201-300 5:301-400	One per 2 water closets		
For Group R Occupancies containing dwelling units or guest rooms, use the table below. For dormitories, use 200 square feet (18.58 m^2) per occupant for the minimum number of plumbing fixtures.					
Group R					
Dwelling units	One per dwelling unit		One per dwelling unit		One per dwelling unit
Hotel, motel, and boarding house guest rooms	One per guest room		One per guest room		One per guest room
Dormitories	One per 10 Over 10, add one fixture for each additional 25 males and over 8, add one for each additional 20 females	One per 8	One per 12 Over 12, add one fixture for each additional 20 males and one for each additional 15 females	One per 12	One per 8 For females, add one additional unit per each additional 30. Over 150 persons, add one additional unit per each additional 20 persons
For the occupancies listed below, use 5,000 square feet (464.5 m^2) per occupant for the minimum number of plumbing fixtures.					
Group S	1:1-10	1:1-10	One per 40 occupants of each sex		One shower for each 15 persons exposed to excessive heat or to skin contamination with poisonous, infectious or irritating materials
Warehouses	2:11-25 3:26-50 4:51-75 5:76-100 Over 100, add one for each 30 persons	2:11-25 3:26-50 4:51-75 5:76-100			

[1]The figures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction thereof.

[2]For occupancies not shown, see Section 2902.1.1.

[3]Where urinals are provided, one water closet less than the number specified may be provided for each urinal installed, except the number of water closets in such cases shall not be reduced to less than one quarter (25%) of the minimum specified. For men's facilities serving 26 or more persons, not less than one urinal shall be provided.

[4]For drinking fountains, see Section 2903.4.

[5]Twenty-four inches (610 mm) of wash sink or 18 inches (457 mm) of a circular basin, when provided with water outlets for such space, shall be considered equivalent to one lavatory.

[6]For when a facility may be usable by either sex, see Section 2902.3.1.

[7]See WAC 246-320 for definitions, other fixtures and equipment for hospitals.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-2900, filed 12/17/03, effective 7/1/04.]

WAC 51-50-3001 Section 3001—General.

SECTION 3001—GENERAL, is not adopted.

Elevators and conveying systems are regulated by chapter 296-96 WAC.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-3001, filed 12/17/03, effective 7/1/04.]

WAC 51-50-3002 Section 3002—Hoistway enclosures.

3002.5 Emergency doors, is not adopted.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-3002, filed 12/17/03, effective 7/1/04.]

WAC 51-50-3003 Section 3003—Emergency operations.

3003.2 Fire-fighters' emergency operation, is not adopted.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-3003, filed 12/17/03, effective 7/1/04.]

WAC 51-50-3004 Section 3004—Hoistway venting.

3004.3 Area of vents. Except as provided for in Section 3004.3.1, the area of the vents shall not be less than 3 1/2 percent of the area of the hoistway not less than 3 square feet (0.28 m^2) for each elevator car, and not less than 3 1/2 percent nor less than 0.5 square feet (0.047 m^3) for each dumbwaiter car in the hoistway, whichever is greater. Vents shall be capable only of manual operation or controlled by a manual switch mounted in an approved location.

3004.5 Plumbing and mechanical systems, is not adopted.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-3004, filed 12/17/03, effective 7/1/04.]

WAC 51-50-3005 Section 3005—Conveying systems.

SECTION 3005—CONVEYING SYSTEMS, is not adopted.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-3005, filed 12/17/03, effective 7/1/04.]

WAC 51-50-3006 Section 3006—Machine rooms.

3006.3 Pressurization, is not adopted.

3006.5 Shunt trip, is not adopted.

3006.6 Plumbing systems, is not adopted.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-3006, filed 12/17/03, effective 7/1/04.]

WAC 51-50-31200 Section 31-2—Standard test method for particulate emissions from fireplaces.

Washington State Building Code Standard 31-2 STANDARD TEST METHOD FOR PARTICULATE EMISSIONS FROM FIREPLACES
(Insert following page 596)
See Section 2114, *International Building Code*

SECTION 31.200—TITLE AND SCOPE.

SECTION 31.200.1 TITLE.

This Appendix Chapter 31-2 shall be known as the "Washington state standard test method for particulate emissions from fireplaces" and may be cited as such; and will be referred to herein as "this standard."

SECTION 31.200.2 SCOPE.

This standard covers emissions performance, approval/certification procedures, test laboratory accreditation, recordkeeping, reporting requirements, and the test protocol for measuring particulate emissions from fireplaces.

All testing, reporting and inspection requirements of this standard shall be conducted by a Washington state department of ecology (DOE) approved testing laboratory. In order to qualify for DOE approval, the test laboratory must be a U.S. Environmental Protection Agency (EPA) accredited laboratory (40 CFR Part 60, Subpart AAA). DOE may approve a test laboratory upon submittal of the following information:

1. A copy of their U.S. EPA accreditation certificate; and

2. A description of their facilities, test equipment, and test-personnel qualifications including education and work experience.

DOE may revoke a test laboratory approval when the test laboratory is no longer accredited by the U.S. EPA or if DOE determines that the test laboratory does not adhere to the testing requirements of this chapter.

SECTION 31.201—DEFINITIONS.

For the purpose of this standard certain terms are defined as follows:

ANALYZER CALIBRATION ERROR is the difference between the gas concentration exhibited by the gas analyzer and the known concentration of the calibration gas when the calibration gas is introduced directly to the analyzer.

BURN RATE is the average rate at which test-fuel is consumed in a fireplace measured in kilograms of wood (dry basis) per hour (kg/hr) during a test-burn.

CALIBRATION DRIFT is the difference in the analyzer reading from the initial calibration response at a mid-range calibration value after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place.

CALIBRATION GAS is a known concentration of carbon dioxide (CO_2), carbon monoxide (CO), or oxygen (O_2) in nitrogen (N_2).

CERTIFICATION OR AUDIT TEST is the completion of at least one, three-fuel-load test-burn cycle in accordance with Section 31.202.

FIREBOX is the chamber in the fireplace in which a test-fuel charge(s) is placed and combusted.

FIREPLACE is a wood burning device which is exempt from U.S. EPA 40 CFR Part 60, Subpart AAA and:

1. Is not a cookstove, boiler, furnace, or pellet stove as defined in 40 CFR Part 60, Subpart AAA; and

2. Is not a masonry heater as defined in Section 31.201.

FACTORY-BUILT FIREPLACE is a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction. Factory-built fireplaces are not dependent on mortar-filled joints for continued safe use.

MASONRY FIREPLACE is a hearth and fire chamber of solid masonry units such as bricks, stones, masonry units or reinforced concrete provided with a suitable chimney.

FIREPLACE, CERTIFIED, is a fireplace that meets the emission performance standards when tested according to Washington State Building Code Standard 31-2.

FIREPLACE, NONCERTIFIED, (masonry or concrete) is any fireplace that is not a certified fireplace. A noncertified fireplace will be subject to applicable burn ban restrictions.

FIREPLACE DESIGN is the construction and/or fabrication specifications including all dimensions and materials required for manufacturing or building fireplaces with identical combustion function and particulate emissions factors.

FIREPLACE MODEL LINE is a series of fireplace models which all have the same internal assembly. Each model in a model line may have different facade designs and external decorative features.

INTERNAL ASSEMBLY is the core construction and firebox design which produces the same function and emissions factor for a fireplace model line.

MASONRY HEATER is a heating system of predominantly masonry construction having a mass of at least 800 kg (1760 lbs), excluding the chimney and foundation, which is designed to absorb a substantial portion of the heat energy from a rapidly burned charge of solid fuel by:

1. Routing of exhaust gases through internal heat exchange channels in which the flow path downstream of the firebox includes at least one 180 degree change in flow direction, usually downward, before entering the chimney; and

2. Being constructed of sufficient mass such that under normal operating conditions the external surface of the heater, except in the region immediately surrounding the fuel loading door(s), does not exceed 110°C (230°F).

Masonry heaters shall be listed or installed in accordance with ASTME-1602.

RESPONSE TIME is the amount of time required for the measurement system to display 95 percent of a step change in gas concentration.

SAMPLING SYSTEM BIAS is the difference between the gas concentrations exhibited by the analyzer when a known concentration gas is introduced at the outlet of the sampling probe and when the sample gas is introduced directly to the analyzer.

SPAN is the upper limit of the gas concentration measurement range (25 percent for CO_2, O_2, and 5 percent for CO).

TEST FACILITY is the area in which the fireplace is installed, operated, and sampled for emissions.

TEST FUEL LOADING DENSITY is the weight of the as-fired test-fuel charge per unit area of usable firebox floor (or hearth).

TEST-BURN is an individual emission test which encompasses the time required to consume the mass of three consecutively burned test-fuel charges.

TEST-FUEL CHARGE is the collection of test fuel pieces placed in the fireplace at the start of certification test.

USABLE FIREBOX AREA is the floor (or hearth) area, within the fire chamber of a fireplace upon which a fire may be, or is intended to be built. Usable firebox area is calculated using the following definitions:

1. Length. The longest horizontal fire chamber dimension along the floor of the firebox that is parallel to a wall of the fire chamber.

2. Width. The shortest horizontal fire chamber dimension along the floor of the firebox that is parallel to a wall of the fire chamber.

3. For angled or curved firebox walls and/or sides, the effective usable firebox area shall be determined by calculating the sum of standard geometric areas or subareas of the firebox floor.

If a fireplace has a floor area within the fire chamber which is larger than the area upon which it is intended that fuel be placed and burned, the usable firebox area shall be calculated as the sum of standard geometric areas or subareas of the area intended for fuel placement and burning. For fireplace grates which elevate the fuel above the firebox floor, usable firebox area determined in this manner shall be multiplied by a factor of 1.5. The weight of test-fuel charges for fireplace-grate usable-firebox-area tests, shall not exceed the weight of test-fuel charges determined for the entire fireplace floor area.

ZERO DRIFT is the difference in the analyzer reading from the initial calibration response at the zero concentration level after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place.

SECTION 31.202—TESTING.

31.202.1 Applicability. This method is applicable for the certification and auditing of fireplace particulate emission factors. This method describes the test facility, fireplace installation requirements, test-fuel charges, and fireplace

operation as well as procedures for determining burn rates and particulate emission factors.

31.202.2 Principle. Particulate matter emissions are measured from a fireplace burning prepared test-fuel charges in a test facility maintained at a set of prescribed conditions.

31.202.3 Test apparatus.

31.202.3.1 Fireplace temperature monitors. Devices capable of measuring flue-gas temperature to within 1.5 percent of expected absolute temperatures.

31.202.3.2 Test facility temperature monitor. A thermocouple located centrally in a vertically oriented pipe shield 6 inches (150 mm) long, 2 inches (50 mm) diameter that is open at both ends, capable of measuring air temperature to within 1.5 percent of expected absolute temperatures.

31.202.3.3 Balance. Balance capable of weighing the test-fuel charge(s) to within 0.1 lb (0.05 kg).

31.202.3.4 Moisture meter. Calibrated electrical resistance meter for measuring test-fuel moisture to within 1 percent moisture content (dry basis).

31.202.3.5 Anemometer. Device capable of detecting air velocities less than 20 ft/min (0.10 m/sec), for measuring air velocities near the fireplace being tested.

31.202.3.6 Barometer. Mercury, aneroid or other barometer capable of measuring atmospheric pressure to within 0.1 inch Hg (2.5 mm Hg).

31.202.3.7 Draft gauge. Electromanometer or other device for the determination of flue draft (i.e., static pressure) readable to within 0.002 inches of water column (0.50 Pa).

31.202.3.8 Combustion gas analyzer. Combustion gas analyzers for measuring carbon dioxide (CO_2), carbon monoxide (CO), and oxygen (O_2) in the fireplace exhaust-gas stream must meet all of the following measurement system performance specifications:

1. **Analyzer calibration error.** Shall be less than ± 2 percent of the span value for the zero, mid-range, and high-range calibration gases.

2. **Sampling system bias.** Shall be less than ± 5 percent of the span value for the zero, mid-range, and high-range calibration gases.

3. **Zero Drift.** Shall be less than ± 3 percent of the span over the period of each run.

4. **Calibration drift.** Shall be less than ± 3 percent of the span value over the period of each run.

5. **Response time.** Shall be less than 1.5 minutes.

31.202.4 Emissions sampling method. Use the emission sampler system (ESS) as described in Section 31.203.12 or an equivalent method as determined by the application of the U.S. EPA Method 301 Validation Procedure (Federal Register, December 12, 1992, Volume 57, Number 250, page 11,998) and upon approval of DOE.

31.202.5 Fireplace installation and test facility requirements. The fireplace being tested must be constructed, if site-built, or installed, if manufactured, in accordance with the designer's/manufacturer's written instructions. The chimney shall have a total vertical height above the base of the fire chamber of not less than 15 feet (4 600 mm). The fireplace chimney exit to the atmosphere must be freely communicating with the fireplace combustion makeup-air source. There shall be no artificial atmospheric pressure differential imposed between the chimney exit to the atmosphere and the fireplace makeup-air inlet.

31.202.6 Fireplace aging and curing. A fireplace of any type shall be aged before certification testing begins. The aging procedure shall be conducted and documented by the testing laboratory.

31.202.6.1 Catalyst-equipped fireplaces. Operate the catalyst-equipped fireplace using fuel described in Section 31.203. Operate the fireplace with a new catalytic combustor in place and in operation for at least 50 hours. Record and report hourly catalyst exit temperatures, the hours of operation, and the weight of all fuel used.

31.202.6.2 Noncatalyst-equipped fireplaces. Operate the fireplace using the fuel described in Section 31.203 for at least 10 hours. Record and report the hours of operation and weight of all fuel used.

31.202.7 Pretest preparation. Record the test-fuel charge dimensions, moisture content, weights, and fireplace (and catalyst if equipped) descriptions.

The fireplace description shall include photographs showing all externally observable features and drawings showing all internal and external dimensions needed for fabrication and/or construction. The drawings must be verified as representing the fireplace being tested and signed by an authorized representative of the testing laboratory.

31.202.8 Test facility conditions. Locate the test facility temperature monitor on the horizontal plane that includes the primary air intake opening for the fireplace. Locate the temperature monitor 3 to 6 feet (1 000 to 2 000 mm) from the front of the fireplace in the 90° sector in front of the fireplace. Test facility temperatures shall be maintained between 65° and 90°F (18° and 32°C). Use an anemometer to measure the air velocity. Measure and record the room-air velocity within 2 feet (600 mm) of the test fireplace before test initiation and once immediately following the test-burn completion. Air velocity shall be less than 50 feet/minute (250 mm/second) without the fireplace operating.

SECTION 31.203—TEST PROTOCOL.

31.203.1 Test fuel. Fuel shall be air dried Douglas fir dimensional lumber or cordwood without naturally associated bark. Fuel pieces shall not be less than 1/2 nor more than 5/6 of the length of the average fire chamber width. Fuel shall be split or cut into pieces with no cross-sectional dimension greater than 6 inches (152 mm). Spacers, if used, shall not exceed 3/4 inches (19 mm) in thickness and 15 percent of the test-fuel charge weight. Fuel moisture shall be in the range of 16 to 20 percent (wet basis) or 19 to 25 percent (dry basis) meter reading.

31.203.2 Test-fuel loading density. The wet (with moisture) minimum weight of each test-fuel charge shall be calculated by multiplying the hearth area in square feet by 7.0 pounds

per square foot (square meters x 0.30 kg/m^2) (± 10 percent). Three test-fuel charges shall be prepared for each test-burn.

31.203.3 Kindling. The initial test-fuel charge of the three test-fuel charge test-burn shall be started by using a kindling-fuel charge which is up to 50 percent of the first test-fuel charge weight. Kindling-fuel pieces can be any size needed to start the fire or whatever is recommended in the manufacturer's (builder's) instructions to consumers. The kindling-fuel charge weight is not part of the initial test-fuel charge weight but is in addition to it.

31.203.4 Test-burn ignition. The fire can be started with or without paper. If used, the weight of the paper must be included in test-fuel charge weight. The remainder of the test-fuel charge may be added at any time after kindling ignition except that the entire first test-fuel charge must be added within 10 minutes after the start of the test (i.e., the time at which the flue-gas temperature at the 8-foot (2 440 mm) level is over 25°F (14°C) greater than the ambient temperature of the test facility).

31.203.5 Test initiation. Emissions and flue-gas sampling are initiated immediately after the kindling has been ignited and when flue-gas temperatures in the center of the flue at an elevation of 8 feet (2 440 mm) above the base (floor) of the fire chamber reach 25°F (14°C) greater than the ambient temperature of the test facility.

31.203.6 Sampling parameters. Sampling (from the 8-foot (2 440 mm) flue-gas temperature measurement location) must include:

1. Particulate emissions
2. Carbon dioxide (CO_2)[1]
3. Carbon monoxide (CO)[1]
4. Oxygen (O_2)[1]
5. Temperature(s)

[1]These gases shall be measured on-line (real-time) and recorded at a frequency of not less than once every 5 minutes. These 5-minute readings are to be arithmetically averaged over the test-burn series or alternatively, a gas bag sample can be taken at a constant sample rate over the entire test-burn series and analyzed for the required gases within one hour of the end of the test-burn.

If a fireplace is equipped with an emissions control device which is located downstream from the 8-foot (2 440 mm) flue-gas temperature measurement location, a second temperature, particulate, and gaseous emissions sampling location must be located downstream from the emissions control device but not less than 4 flue diameters upstream from the flue exit to the atmosphere. The two sampling locations must be sampled simultaneously during testing for each fireplace configuration being tested.

31.203.7 Test-fuel additions and test completion. The second and third test-fuel charges for a test-burn may be placed and burned in the fire chamber at any time deemed reasonable by the operator or when recommended by the manufacturer's and/or builder's instructions to consumers.

No additional kindling may be added after the start of a test-burn series and the flue-gas temperature at the 8-foot (2 440 mm) level above the base of the hearth must always be 25°F (14°C) greater than the ambient temperature of the test facility for a valid test-burn series. Each entire test-fuel charge must be added within 10 minutes from the addition of the first piece.

A test (i.e., a three test-fuel charge test-burn series) is completed and all sampling and measurements are stopped when all three test-fuel charges have been consumed (to more than 90 percent by weight) in the firebox and the 8-foot (2 440 mm) level flue-gas temperature drops below 25°F (14°C) greater than the ambient temperature of the test facility. Within 5 minutes after the test-burn is completed and all measurements and sampling has stopped, the remaining coals and/or unburned fuel, shall be extinguished with a carbon dioxide fire extinguisher. All of the remaining coals, unburned fuel, and ash shall be removed from the firebox and weighed to the nearest 0.1 pound (0.05 kg). The weight of these unburned materials and ash shall be subtracted from the total test-burn fuel weight when calculating the test-burn burn rate. A test-burn is invalid if less than 90 percent of the weight of the total test-fuel charges plus the kindling weight have been consumed in the fireplace firebox.

31.203.8 Test-fuel charge (load) adjustments. Test-fuel charges may be adjusted (i.e., repositioned) once during the burning of each test-fuel charge. The time used to make this adjustment shall be less than 15 seconds.

31.203.9 Air supply adjustment. Air supply controls, if the fireplace is equipped with controls, may not be adjusted during any test-burn series after the first 10 minutes of startup of each fuel load. All air supply settings must be set to the lowest level at the start of a test and shall remain at the lowest setting throughout a test-burn.

31.203.10 Auxiliary fireplace equipment operation. Heat exchange blowers (standard or optional) sold with the fireplace shall be operated during all test-burns following the manufacturer's written instructions. If no manufacturer's written instructions are available, operate the heat exchange blower in the "high" position. (Automatically operated blowers shall be operated as designed.) Shaker grates, by-pass controls, afterburners, or other auxiliary equipment may be adjusted only once per test-fuel charge following the manufacturer's written instructions. Record and report all adjustments on a fireplace operational written-record.

31.203.11 Fireplace configurations. One, 3 test-fuel charge test-burn shall be conducted for each of the following fireplace operating configurations:

1. Door(s) closed, with hearth grate;
2. Door(s) open, with hearth grate;
3. Door(s) closed, without hearth grate;
4. Door(s) open, without hearth grate; and
5. With no door(s), and draft inducer on.

No test-burn series is necessary for any configuration the appliance design cannot or is not intended to accommodate. If a configuration is not tested, the reason must be submitted with the test report and the appliance label must state that the appliance cannot be used in that configuration by consumer users.

One emission factor result, or one emission factor average, as provided in Section 31.203.11.2, from each fireplace

configuration tested shall be compiled into an arithmetic average of all the configurations tested for determining compliance with the requirements of Section 31.204.2.

31.203.11.1 Closed-door(s) testing. For all closed-door test configurations, the door(s) must be closed within 10 minutes from the addition of the first test-fuel piece of each test-fuel charge in a test-burn. During a test-burn, the door(s) cannot be reopened except during test-fuel reload and adjustment as referenced in Sections 31.203.7 and 31.203.8.

31.203.11.2 Additional test-burn. The testing laboratory may conduct more than one test-burn series for each of the applicable configurations specified in Section 31.203.11. If more than one test-burn is conducted for a specified configuration, the results from at least 2/3 of the test-burns for that configuration shall be used in calculating the arithmetic average emission factor for that configuration. The measurement data and results of all tests conducted shall be reported regardless of which values are used in calculating the average emission factor for that configuration.

31.203.12 Emissions sampling system (ESS).

31.203.12.1 Principle. Figure 31-2-1 shows a schematic of an ESS for sampling solid-fuel-fired fireplace emissions. Except as specified in Section 31.202.4, an ESS in this configuration shall be used to sample all fireplace emissions. The ESS shall draw flue gases through a 15-inch (380 mm) long, 3/8-inch (10 mm) O.D. stainless steel probe which samples from the center of the flue at an elevation which is 8 feet (2 440 mm) above the floor of the firebox (i.e., the hearth). A flue-gas sample shall then travel through a 3/8-inch (10 mm) O.D. Teflon® tube, and a heated U.S. EPA Method 5-type glass-fiber filter (40 CFR Part 60, Appendix A) for collection of particulate matter. The filter shall be followed by an in-line flow-through cartridge containing 20 grams of XAD-2 sorbent resin for collecting semivolatile hydrocarbons. Water vapor shall then be removed from the sampled gas by a silica-gel trap. Flue-gas oxygen concentrations, which shall be used to determine the ratio of flue-gas volume to the amount of fuel burned, are measured within the ESS system by an electrochemical cell meeting the performance specifications presented in Section 31.202.3.8(1).

The ESS shall use a critical orifice to maintain a nominal flue-gas sampling rate of 0.035 cfm (0.0167 liters per second). The actual flow rate through each critical orifice shall be determined to within 0.000354 cubic feet (0.01 liters) per second before and after each test-burn with a bubble flow meter to document exact sampling rates. The posttest-burn critical-orifice flow-rate determinations shall be performed before the ESS is dismantled for sample recovery and cleanup. Pretest-burn and posttest-burn critical-orifice flow-rate measurements shall be within 0.0000117 cubic feet (0.00033 liters) per second of each other or the test-burn emissions results shall be invalid. Temperatures shall be monitored using type K ground-isolated, stainless steel-sheathed thermocouples.

The ESS unit shall return particle-free and dry exhaust gas to the flue via a 1/4-inch (6 mm) Teflon® line and a 15-inch (380 mm) stainless steel probe inserted into the flue. A subsample aliquot of the flue-gas sample-gas stream exiting the ESS unit, shall be pumped into a 1 cubic foot (29 liter) Tedlar® bag for measuring the average carbon dioxide, carbon monoxide, and confirmation of average oxygen concentrations for the test period. Flow to the subsample gas bag shall be controlled by a solenoid valve connected to the main pump circuit and a fine-adjust needle-controlled flow valve. The solenoid valve shall be open only when the pump is activated, allowing the subsample gas to be pumped into the gas bag at all times when the ESS pump is on. The rate of flow into the bag shall be controlled by the fine-adjust metering needle-valve which is adjusted at setup so that 4.7 to 5.2 gal (18 to 20 liters) of gas is collected over the entire 3 test-fuel charge test-burn without over-pressurizing the gas sample bag.

31.203.12.2 The data acquisition and control system. The data acquisition and control system for the ESS is shown in Figure 31-2-2. This system consists of a personal computer (PC) containing an analog-to-digital data processing board (12-bit precision), a terminal (connection) box, and specialized data acquisition and system control software (called CONLOG). For fireplace testing, the CONLOG software is configured to control, collect, and store the following data:

1. Test-period starting and ending times and dates, and total length of sampling period;
2. Pump-cycle on/off, cycle length and thermocouple (TC) cycle recording interval (frequency);
3. Temperature records, including flue-gas and ambient temperatures, averaged over preselected intervals;
4. Date, times, and weights of each added fuel load; and
5. Flue-gas oxygen measurements taken during each sample cycle.

During testing, instantaneous readings of real-time data shall be displayed on the system status screen. These data shall include the date, time, temperatures for each of the TCs, and flue-gas oxygen concentrations. The most recent 15 sets of recorded data shall also be displayed.

Flue-gas sampling and the recording of flue-gas oxygen concentrations shall only occur when flue-gas temperatures are above 25°F (14°C) greater than the ambient temperature of the test facility. Temperatures and fueling shall always be recorded at five-minute intervals regardless of flue-gas temperature. The ESS sampling-pump operating cycle shall be adjustable as described in Section 31.203.12.3.

Place illustration here.

Place illustration here.

31.203.12.3 ESS sampling-pump operating cycle. The ESS sampling-pump operating cycle shall be adjusted to accommodate variable test-fuel charge sizes, emission factors, and the length of time needed to complete a test-burn series. The sampler-pump operation shall be adjustable from 1 second to 5 minutes (100 percent) "on" for every 5-minute test-burn data-recording interval. This will allow adjustment for the amount of anticipated emissions materials that will be sampled and deposited on the ESS filter, XAD-2, and the other system components. It is recommended that the minimum sample quantities stipulated in Section 31.203.12.4 be used to calculate the appropriate pump cycle "on" and "off" periods. It should be noted that if the sampler collects too much particulate material on the filter and in the XAD-2 cartridge, the unit may fail the sample flow calibration check required at the end of each test-burn.

31.203.12.4 Minimum sample quantities. For each complete 3 test-fuel charge test-burn, the ESS must catch a minimum total particulate material mass of at least 0.231 grains (15 mg). Alternatively, the ESS must sample a minimum of 10 cubic feet (283 liters) during each 3 test-fuel charge test-burn. If this volume cannot be sampled in the test-burn time period, two ESS samplers must be utilized to sample fireplace emissions simultaneously during each test-burn. If emissions results from the two ESSs are different by more than 10 percent of the lower emissions-factor result, the test-burn results are invalid. An arithmetic average is calculated for test-burn results when two ESSs are utilized.

31.203.12.5 Equipment preparation and sample processing procedures.

31.203.12.5.1. Prior to emissions testing, the ESS unit shall be prepared with a new, tared glass-fiber filter and a clean

XAD-2 sorbent-resin cartridge. Within 3 hours after testing is completed, the stainless steel sampling probe, Teflon® sampling line, filter holder, and XAD-2 cartridge(s) shall be removed from the test site and transported to the laboratory for processing. Each component of the ESS sampler shall be processed as follows:

1. Filter: The glass fiber filter (4 inches (102 mm) in diameter) shall be removed from the ESS filter housing and placed in a petri dish for desiccation and gravimetric analysis.

2. XAD-2 sorbent-resin cartridge: The sorbent-resin cartridge shall be extracted in a Soxhlet extractor with dichloromethane for 24 hours. The extraction solution shall be transferred to a tared glass beaker and evaporated in an ambient-air dryer. The beaker with dried residue shall then be desiccated to constant weight (less than ± 0.5 mg change within a 2-hour period), and the extractable residue shall be weighed.

3. ESS hardware: All hardware components which are in the flue-gas sample stream (stainless steel probe, Teflon® sampling line, stainless steel filter housing, and all other Teflon® and stainless steel fittings) through the top of the sorbent-resin cartridge, shall be cleaned with a solvent mixture of 50 percent dichloromethane and 50 percent methanol. The cleaning solvent solutions shall be placed in tared glass beakers, evaporated in an ambient-air dryer, desiccated to constant weight (less than ± 0.5 mg change within a 2-hour period), and weighed.

EPA Method 5H procedures (40 CFR Part 60, Appendix A) for desiccation and weighing time intervals shall be followed for steps 1 through 3 above.

31.203.12.5.2 The ESS shall be serviced both at the start and end of a fireplace testing period. During installation, leak checks shall be performed; the thermocouples, fuel-weighing scale, and oxygen-cell shall be calibrated, and the data logger shall be programmed. At the end of the test period, final calibration, and leak-check procedures shall again be performed, and the ESS sampling line, filter housing, XAD-2 cartridge, sampling probe, and Tedlar® bag shall be removed, sealed, and transported to the laboratory for analysis. If the pretest and posttest leak checks of the ESS system exceed 0.00033 liters per second, the test-burn emission results shall be invalid.

31.203.12.6 Data processing and quality assurance.

31.203.12.6.1 Upon returning to the laboratory facilities, the data file (computer disk) shall be reviewed to check for proper equipment operation. The data-logger data files, log books, and records maintained by field staff shall be reviewed to ensure sample integrity.

The computer-logged data file shall be used in conjunction with the ESS particulate samples and sample-gas bag analyses to calculate the emission factor, emission rate, and fireplace operational parameters. An example ESS results report is presented in Table 31-2-A.

31.203.12.6.2 Burning period. The total burning period is calculated by:

Total Burning Period = (Length of each sample cycle) x (Number of flue temperature readings over 25°F (14°C) greater than the ambient temperature of the test facility).

WHERE:

1. Length of each sample cycle: The time between each temperature recording as configured in the CONLOG software settings (standardized at 5 minutes).

2. Number of flue temperature readings during fireplace use: The total number of temperature readings when the calibrated temperature value was more than 25°F (14°C) greater than the ambient temperature of the test facility.

31.203.12.6.3 Particulate emissions.

31.203.12.6.3.1 ESS particulate emission factor. The equation for the total ESS particulate emission factor for each test-burn presented below produces reporting units of grams per dry kilogram of fuel burned (g/kg):

$$\text{Particulate emission factor (g/kg)} = \frac{\text{(Particulate Catch) x (Stoichiometric Volume) x (Flue-gas Dilution Factor)}}{\text{(Sampling Time) x (Sampling Rate)}}$$

WHERE:

1. Particulate Catch: The total mass, in grams, of particulate material caught on the filter, in the XAD-2 resin cartridge (semivolatile compounds); and in the probe clean-up and rinse solutions.

2. Stoichiometric Volume: Stoichiometric volume is the volume of dry air needed to completely combust one dry kilogram of fuel with no "excess air." This value is determined by using a chemical reaction balance between the specific fuel being used and the chemical components of air. The stoichiometric volume for Douglas fir is 86.78 cubic feet per pound (5 404 liters per dry kilogram) at 68°F (20°C) and 29.92 inches (760 mm) of mercury pressure.

3. Flue-gas Dilution Factor: The degree to which the sampled combustion gases have been diluted in the flue by air in excess of the stoichiometric volume (called excess air). The dilution factor is obtained by using the average sampled carbon dioxide and carbon monoxide values obtained from the sample gas bag analyses and the following equation:

Flue-Gas Dilution Factor =

Place illustration here.

Note: Multiplying the g/kg emission factor by the burn rate (dry kg/hr) yields particulate emissions in grams per hour (g/hr). Burn rate is calculated by the following equation:

$$\text{Burn Rate (kg/hr)} = \frac{\text{Total Fuel (kg)}}{\text{Total Burn Period (hours)}}$$

WHERE:

Total Fuel is the total fuel added during the entire test-burn minus the remaining unburned materials at the end of the test-burn.

4. Sampling Time: The number of minutes the sampler pump operated during the total test-burn period.

5. Sampling Rate: Sampling rate is controlled by the critical orifice installed in the sampler. The actual calibrated sampling rate is used here.

31.203.12.6.3.2 EPA Method 5H particulate emissions. ESS-measured emissions factors submitted to DOE for approval must first be converted to U.S. EPA Method 5H equivalents. The ESS particulate emissions factor results obtained in Section 31.203.12.6.1 are converted to be equivalent to the U.S. EPA Method 5H emissions factor results by the following equation:

$$1.254 + (0.302 \times PEF) + (1.261 \times 10^{-PEF})$$

WHERE:

PEF is the ESS-measured particulate emission factor for a test-burn.

31.203.12.6.4 CO emissions. The carbon monoxide (CO) emission factor equation produces grams of CO per dry kilogram of fuel burned. The grams per kilogram equation includes some equation components described above.

$$\text{CO emission factor (g/kg)} = \frac{\text{(Fraction CO) x (Stoichiometric Volume) x (Dilution Factor) x (Molecular Weight of CO)}}{\text{(24.45 L/mole)}}$$

WHERE:

1. Fraction CO: The fraction of CO measured in the gas sampling bag.

Note: Percent CO divided by 100 gives the fraction CO.

2. Molecular Weight of CO: The gram molecular weight of CO, 28 pounds per pound-mole (28.0 g/g-mole).

Multiplying the results of the above equation by the burn rate (dry kg/hr) yields the grams per hour (g/hr) CO emission rate.

Table 31-2-A Example ESS Data Results Format
ESS Emission Results

Test Facility Location:	xxxx
Test Laboratory:	xxxx
Test-Burn Number:	xxxx
Start Time/Date:	xxxx
End Time/Date:	xxxx
Fireplace Model:	xxxx
TIME	
Total Test Period	152.3 hours
Total Burn Time	64.6 hours
Flue > 25 Degrees F above ambient temperature	42.4 %
ESS SETTINGS	
ESS Sample Rate	1.004 l/min
Sample Cycle	5.0 min
Sample Time/Sample Cycle	0.443 min
TEST FUEL	
Total Fuel Used (wet weight)	101.3 kg
Ave. Fuel Moisture (dry basis)	17.7 %
Total Fuel Used (dry weight)	86.1 kg
Average Test-Fuel Charge	14.5 kg
Average Burn Rate	1.33 dry kg/hr
PARTICULATE EMISSIONS (EPA METHOD 5H EQUIVALENTS)	
Gram/Kilogram	2.6 g/kg
Gram/Hour	3.4 g/hr
Gram/Cubic Meter	0.06 g/m^3
CARBON MONOXIDE EMISSIONS	
Gram/Kilogram	48.0 g/kg
Gram/Hour	64.0 g/hr
Gram/Cubic Meter	1.25 g/m^3

AVERAGE TEMPERATURES		
Fuel-Gas Temperatures	135°C	275°F
Flue Exit Temperature	154°C	308°F
Test Facility Ambient Temperature	19°C	66°F

AVERAGE FLUE-GAS CONCENTRATIONS	
Flue Oxygen (SE)	18.15 %
Flue Oxygen (gas bag or analyzer)	18.05 %
Flue CO (gas bag or analyzer)	0.10 %
Flue CO_2 (gas bag or analyzer)	2.60 %
BREAKDOWN OF ESS PARTICULATE SAMPLE	
Rinse	25.5 mg
XAD	6.3 mg
Filter	15.7 mg
Blank	0.0 mg
TOTAL	**47.4 mg**

Notes: NM = Not Measured, NA = Not Applicable, NU = Not Used
Total time flue temperature greater than 25°F over ambient temperature.

TEST PERFORMED BY: XYZ Testing International, Olympia, Washington, 98504.

31.203.13 Calibrations.

31.203.13.1 Balance. Before each certification test, the balance used for weighing test-fuel charges shall be audited by weighing at least one calibration weight (Class F) that corresponds to 20 percent to 80 percent of the expected test-fuel charge weight. If the scale cannot reproduce the value of the calibration weight within 0.1 lb (0.05 kg) or 1 percent of the expected test-fuel charge weight, whichever is greater, recalibrate the scale before use with at least five calibration weights spanning the operational range of the scale.

31.203.13.2 Temperature monitor. Calibrate the Temperature Monitor before the first certification test and semiannually thereafter.

31.203.13.3 Fuel moisture meter. Calibrate the Fuel Moisture Meter as per the manufacturer's instructions before each certification test.

31.203.13.4 Anemometer. Calibrate the anemometer as specified by the manufacturer's instructions before the first certification test and semiannually thereafter.

31.203.13.5 Barometer. Calibrate the barometer against a mercury barometer before the first certification test and semiannually thereafter.

31.203.13.6 Draft gauge. Calibrate the draft gauge as per the manufacturer's instructions; a liquid manometer does not require calibration.

31.203.13.7 ESS. The ESS shall be calibrated as specified in Section 31.203.12.1.

31.203.14 Reporting criteria. Submit both raw and reduced data for all fireplace tests. Specific reporting requirements are as follows:

31.203.14.1 Fireplace identification. Report fireplace identification information including manufacturer, model, and serial number. Include a copy of fireplace installation and operation manuals.

31.203.14.2 Test facility information. Report test facility location, temperature, and air velocity information.

31.203.14.3 Test equipment calibration and audit information. Report calibration and audit results for the test-fuel balance, test-fuel moisture meter, analytical balance, and sampling equipment including volume metering systems and gaseous analyzers.

31.203.14.4 Pretest information and conditions. Report all pretest conditions including test-fuel charge weight, fireplace temperatures, and air supply settings.

31.203.14.5 Particulate emission data. Report a summary of test results for all test-burns conducted and the arithmetically averaged emission factor for all test-burns used for certification. Submit copies of all data sheets and other records collected during the testing. Submit examples of all calculations.

31.203.14.6 Required test report information and suggested format. Test report information requirements to be provided to DOE for approval/certification of fireplaces are presented in this standard. The requirements are presented here in a recommended report format.

31.203.14.6.1 Introduction.

1. Purpose of test: Certification or audit.

2. Fireplace identification: Manufacturer, model number, catalytic/noncatalytic, and options. Include a copy of fireplace installation and operation manuals.

3. Laboratory: Name, location, and participants.

4. Test information: Date fireplace was received, date of tests, sampling methods used, and number of test-burns.

31.203.14.6.2 Summary and discussion of results.

1. Table of results: Test-burn number, burn rate, particulate emission factor (in U.S. EPA Method 5H equivalents), efficiency (if determined), and averages (indicate which test-burns are used).

2. Summary of other data: Test facility conditions, surface temperature averages, catalyst temperature averages, test-fuel charge weights, and test-burn times.

3. Discussion: Specific test-burn problems and solutions.

31.203.14.6.3 Process description.

1. Fireplace dimensions: Volume, height, width, lengths (or other linear dimensions), weight, and hearth area.

2. Firebox configuration: Air supply locations and operation, air supply introduction location, refractory location and dimensions, catalyst location, baffle and by-pass location and operation (include line drawings and photographs).

3. Process operation during test: Air supply settings and adjustments, fuel bed adjustments, and draft.

4. Test fuel: Test fuel properties (moisture and temperature), test fuel description (include line drawings or photograph), and test fuel charge density.

31.203.14.6.4 Sampling locations. Describe sampling location relative to fireplace. Include line drawings and photographs.

31.203.14.6.5 Sampling and analytical procedures.

1. Sampling methods: Brief reference to operational and sampling procedures, and optional and alternative procedures used.

2. Analytical methods: Brief description of sample recovery and analysis procedures.

31.203.14.6.6 Quality control and assurance procedures and results.

1. Calibration procedures and results: Certification, sampling, and analysis procedures.

2. Test method quality control procedures: Leak-checks, volume-meter checks, stratification (velocity) checks, and proportionality results.

31.203.14.6.7 Appendices.

1. Results and Example Calculations. Include complete summary tables and accompanying examples of all calculations.

2. Raw Data. Include copies of all uncorrected data sheets for sampling measurements, temperature records, and sample recovery data. Include copies of all burn rate and fireplace temperature data.

3. Sampling and Analytical Procedures. Include detailed description of procedures followed by laboratory personnel in conducting the certification test, emphasizing particularly, parts of the procedures differing from the prescribed methods (e.g., DOE approved alternatives).

4. Calibration Results. Summary of all calibrations, checks, and audits pertinent to certification test results including dates.

5. Participants. Test personnel, manufacturer representatives, and regulatory observers.

6. Sampling and Operation Records. Copies of uncorrected records of activities not included on raw data sheets (e.g., fireplace door open times and durations).

7. Additional Information. Fireplace manufacturer's written instructions for operation during the certification test and copies of the production-ready (print-ready) temporary

and permanent labels required in Section 31.208 shall be included in the test report prepared by the test laboratory.

31.203.14.7 References.

1. Code of Federal Regulations, U.S. EPA Title 40, Part 60, Subpart AAA and Appendix A (40 CFR Part 60).

2. Barnett, S. G. and P. G. Fields, 1991, In-Home Performance of Exempt Pellet Stoves in Medford, Oregon, prepared for U.S. Department of Energy, Oregon Department of Energy, Tennessee Valley Authority, and Oregon Department of Environmental Quality, July 1991.

3. Barnett, S. G. and R. R. Roholt, 1990, In-Home Performance of Certified Pellet Stoves in Medford and Klamath Falls, Oregon, prepared for the U.S. Department of Energy, 1990.

4. Barnett, S. G., 1990, "Field Performance of Advanced Technology Woodstoves in Glens Falls, New York, 1988-1989," for New York State Energy Research and Development Authority, U.S. EPA, Coalition of Northeastern Governors, Canadian Combustion Research Laboratory, and the Wood Heating Alliance, December 1989.

SECTION 31.204—APPROVAL PROCEDURE FOR FIREPLACES.

On or after the effective date of this regulation, a manufacturer or builder of a fireplace who wishes to have a fireplace model line or fireplace design designated as an approved (or certified) fireplace, shall submit to DOE for its review the following information:

31.204.1 Manufacturer name and street address, model or design identification, construction specifications, and drawings of the firebox and required chimney system.

31.204.2 A test report prepared in accordance with Section 31.203.14.6 showing that testing has been conducted by a DOE approved and U.S. EPA accredited laboratory, and that the arithmetically averaged particulate emission factors for that fireplace model line or design, tested in accordance with Washington State Building Code Standard 31-2, Section 31.202, does not exceed 7.3 g/kg (U.S. EPA Method 5H equivalent as determined in Section 31.203.12.6.3.2) for factory-built fireplace model lines or designs or 12.0 g/kg (U.S. EPA Method 5H equivalent as determined in Section 31.203.12.6.3.2) for new certified masonry fireplace model lines or designs. After January 1, 1999, particulate emission factors for factory-built and new certified masonry fireplace model lines or designs shall not exceed 7.3 g/kg (U.S. EPA Method 5H equivalents as determined in Section 31.203.12.6.3.2).

SECTION 31.205—APPROVAL OF NONTESTED FIREPLACES.

On or after the effective date of this regulation, DOE may grant approval for a fireplace model line or design that has not been tested pursuant to Section 31.204 upon submission of the following by the applicant:

31.205.1 Manufacturer name and street address, model or design identification, construction specifications, and drawings of the internal assembly system.

31.205.2 Documentation from an EPA accredited laboratory that the model is a fireplace within the definition of this regulation, has substantially the same core construction as a model already tested by a DOE approved and EPA accredited laboratory, and is substantially similar to the approved model in internal assembly design, combustion function, and probable emissions performance as listed in Section 31.204.2.

SECTION 31.206—APPROVAL THROUGH ALTERNATIVE TEST PROTOCOL.

As provided in Section 31.202.4, an alternative testing protocol may be submitted by a DOE approved and EPA accredited laboratory for acceptance by DOE as equivalent to Washington State Building Code Standard 31-2.

SECTION 31.207—APPROVAL TERMINATION.

All fireplace model line or design approvals shall terminate five years from the approval date. Previously approved fireplace model line and/or design may be granted reapproval (recertification) upon application to and review by DOE. No testing shall be required for fireplace model line or design reapprovals unless DOE determines that design changes have been incorporated into the fireplace that could adversely affect the emissions factor, or testing is otherwise stipulated by DOE.

DOE may revoke a fireplace model line or design approval certification if it is determined that the fireplaces being produced in a specific model line do not comply with the requirements of Section 31.200. Such a determination shall be based on all available evidence, including:

1. Test data from a retesting (audit test) of the original unit on which the certification test was conducted or a sample unit from the current model line;

2. A finding that the certification test was not valid;

3. A finding that the labeling of the fireplace does not comply with the requirements of Section 31.200;

4. Failure by the fireplace manufacturer (builder) to comply with reporting and recordkeeping requirements under Section 31.200;

5. Physical examination showing that a significant percentage of production units inspected are not similar in all material respects to the fireplace submitted for testing; or

6. Failure of the manufacturer to conduct a quality assurance program in conformity with Section 31.208.

Revocation of certification under this section shall not take effect until the manufacturer (builder) concerned has been given written notice by DOE setting forth the basis for the proposed determination and an opportunity to request a hearing.

SECTION 31.208—QUALITY CONTROL.

Once within 30 days of each annual anniversary after the initial approval/certification, a DOE approved and U.S. EPA accredited laboratory shall inspect the most recently produced fireplace of an approved model line or design at its manufacturing location (site, if site-built) to document adherence to the approved/certified fireplace design specifications. If no fireplaces of an approved model line or design were produced (built) during the previous 12 months, no inspection is required.

An inspection report for each approved fireplace model line or design must be submitted to DOE within 30 days after the inspection date. The inspection report shall include, as a minimum, the model identification and serial number of the fireplace inspected, the location where the model was inspected, the names of the manufacturer's and/or builder's

representatives present, the date of inspection, and a description of any changes made to the approved fireplace model line or design since the last inspection. The U.S. EPA accredited laboratory which conducts the annual quality control inspection is responsible for auditing the content and format of all labels to be applied to approved fireplaces as stipulated in 31.209.

A fireplace model line or design shall be retested in accordance with Section 31.202 if it is determined during inspection that design changes have been incorporated into the approved/certified fireplace design which adversely affect the fireplace particulate emissions factor. Design elements which can affect fireplace particulate emissions include:

1. Grate placement and height;
2. Air supply minimum and maximum controls;
3. Usable hearth area; and
4. Firebox height, width, and length dimensions.

SECTION 31.209 — PERMANENT LABEL, TEMPORARY LABEL AND OWNER'S MANUAL.

31.209.1 Labels and the owner's manual. Labels and owner's manual shall be prepared and installed in all certified "FOR SALE" fireplaces as specified in U.S. EPA 40 CFR Part 60, Section 60.536. Information that shall be presented on all labels includes:

1. Manufacturer's or builder's name, address, and phone number;
2. Model number and/or name;
3. Month and year of manufacture;
4. Starting and ending dates for the 5-year approval period;
5. If a fireplace was tested and approved with an emissions control device which is not an integral part of the fireplace structure, the label shall state that "The fireplace cannot be sold or installed without the specified emissions control device in place and operational";
6. On certified fireplaces the statement: "This appliance has been tested and has demonstrated compliance with Washington state amendment to the Washington State Building Code Standard 31-2 requirements."

SECTION 31.210—LIST OF APPROVED FIREPLACES.

DOE shall maintain a list of approved fireplace model lines and designs, and that list shall be available to the public.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-31200, filed 12/17/03, effective 7/1/04.]

WAC 51-50-3408 Section 3408—Moved structures.

3408.1 Conformance. Buildings or structures moved into or within the jurisdiction shall comply with the provisions of this code, the International Residential Code (chapter 51-51 WAC), the International Mechanical Code (chapter 51-52 WAC), the International Fire Code (chapter 51-54 WAC), the Uniform Plumbing Code and Standards (chapters 51-56 and 51-57 WAC), the Washington State Energy Code (chapter 51-11 WAC) and the Washington State Ventilation and Indoor Air Quality Code (chapter 51-13 WAC) for new buildings or structures.

EXCEPTION: Group R-3 buildings or structures are not required to comply if:
1. The original occupancy classification is not changed; and
2. The original building is not substantially remodeled or rehabilitated.

For the purposes of this section, a building shall be considered to be substantially remodeled when the costs of remodeling exceed 60 percent of the value of the building exclusive of the costs relating to preparation, construction, demolition or renovation of foundations.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-3408, filed 12/17/03, effective 7/1/04.]

WAC 51-50-3409 Section 3409—Accessibility for existing buildings.

3409.5 Alterations. A building, facility or element that is altered shall comply with the applicable provisions in Chapter 11 and ICC A117.1 unless technically infeasible. Where compliance with the section is technically infeasible, the alteration shall provide access to the maximum extent technically feasible. Where alterations would increase the number of public pay telephones to four, with at least one in the interior, or where the facility has four or more public pay telephones and one or more is altered; at least one interior text telephone shall be provided.

EXCEPTIONS:
1. The altered element or space is not required to be on an accessible route, unless required by Section 3409.6.
2. Accessible means of egress required by Chapter 10 are not required to be provided in existing buildings and facilities.
3. In alterations, accessibility to raised or sunken dining areas, or to all parts of outdoor seating areas is not required provided that the same services and amenities are provided in an accessible space usable by the general public and not restricted to use by people with disabilities.

3409.6 Alterations affecting an area containing a primary function. Where an alteration affects the accessibility to, or contains an area of primary function, the route to the primary function area shall be accessible. The accessible route to the primary function area shall include toilet facilities, telephones or drinking fountains serving the area of primary function.

EXCEPTIONS:
1. The costs of providing the accessible route are not required to exceed 20 percent of the costs of the alteration affecting the area of primary function.
2. This provision does not apply to alterations limited solely to windows, hardware, operating controls, electrical outlets and signs.
3. This provision does not apply to alterations limited solely to mechanical systems, electrical systems, installation or alteration of fire protection systems and abatement of hazardous materials.
4. This provision does not apply to alterations undertaken for the primary purpose of increasing the accessibility of an existing building, facility or element.

3409.7 Scoping for alterations. The provisions of Sections 3409.7.1 through 3409.7.11 shall apply to alterations to existing buildings and facilities. Where an escalator or new stairway is planned or installed requiring major structural changes, then a means of vertical transportation (e.g., elevator, platform lift) shall be provided in accordance with this chapter.

3409.7.2 Elevators. Altered elements of existing elevators shall comply with ASME A17.1 and ICC A117.1. Such elements shall also be altered in elevators programmed to respond to the same hall call control as the altered elevator. Elevators shall comply with chapter 296-96 WAC.

3409.7.3 Platform lifts. Platform (wheelchair) lifts complying with ICC A117.1 and installed in accordance with ASME A18.1 shall be permitted as a component of an accessible route. Platform lifts shall comply with chapter 296-96 WAC.

3409.7.7 Dwelling or sleeping units. Where I-1, I-2, I-3, R-1, R-2 or R-4 dwelling or sleeping units are being altered or added, the requirements of Section 1107 for Accessible or Type A units and Chapter 9 for accessible alarms apply only to the quantity of spaces being altered or added. At least one sleeping room for each 25 sleeping rooms, or fraction thereof, being added or altered, shall have telephones and visible notification devices complying with Appendix E Section E104.3.4, as well as visible alarms.

3409.7.9 Toilet rooms. Where it is technically infeasible to alter existing toilet and bathing facilities to be accessible, an accessible unisex toilet or bathing facility is permitted. The unisex facility shall be located on the same floor and in the same area as the existing facility. The number of toilet facilities and water closets required by the State Building Code is permitted to be reduced by one, in order to provide accessible features.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-3409, filed 12/17/03, effective 7/1/04.]

Chapter 51-51 WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE 2003 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE

WAC

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51-51-0325 Section R325—Family child day care homes.
51-51-1004 Section R1004—Factory-built fireplaces.
51-51-2000 Chapter 20—Boilers and water heaters.
51-51-2401 Section G2401 (101)—General.
51-51-2415 Section G2415 (404)—Piping system installation.
51-51-4300 Chapter 43—Referenced standards.

WAC 51-51-001 Authority. These rules are adopted under the authority of chapter 19.27 RCW.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-001, filed 12/17/03, effective 7/1/04.]

WAC 51-51-002 Purpose. The purpose of these rules is to implement the provisions of chapter 19.27 RCW, which provides that the state building code council shall maintain the State Building Code in a status which is consistent with the purpose as set forth in RCW 19.27.020. In maintaining the codes the council shall regularly review updated versions of the codes adopted under the act, and other pertinent information, and shall amend the codes as deemed appropriate by the council.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-002, filed 12/17/03, effective 7/1/04.]

WAC 51-51-003 International Residential Code. The 2003 edition of the *International Residential Code* as published by the International Code Council is hereby adopted by reference with the following additions, deletions, and exceptions: Provided that chapters 11 and 25 through 42 of this code are not adopted.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-003, filed 12/17/03, effective 7/1/04.]

WAC 51-51-007 Exceptions. The exceptions and amendments to the International Residential Code contained in the provisions of chapter 19.27 RCW shall apply in case of conflict with any of the provisions of these rules.

The provisions of this code do not apply to temporary growing structures used solely for the commercial production of horticultural plants including ornamental plants, flowers, vegetables, and fruits. "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention. A temporary growing structure is not considered a building for purposes of this code.

The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter 70.114A RCW or chapter 37, Laws of 1998 (SB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

Codes referenced which are not adopted through RCW 19.27.031 or chapter 19.27A RCW shall not apply unless specifically adopted by the authority having jurisdiction.

The standards for liquefied petroleum gas installations shall be NFPA 58 (Liquefied Petroleum Gas Code) and NFPA 54 (National Fuel Gas Code). All other fuel gas installations shall be regulated by the International Mechanical Code and International Fuel Gas Code.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-007, filed 12/17/03, effective 7/1/04.]

WAC 51-51-008 Implementation. The International Residential Code adopted by chapter 51-51 Washington Administrative Code (WAC) shall become effective in all counties and cities of this state on July 1, 2004.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-008, filed 12/17/03, effective 7/1/04.]

WAC 51-51-0101 Section R101—Title, scope and purpose.

R101.2 Scope. The provisions of the *International Residential Code for One- and Two-Family Dwellings* shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures, including adult family homes, foster family care homes and family day care homes licensed by the Washington state department of social and health services.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-0101, filed 12/17/03, effective 7/1/04.]

WAC 51-51-0102 Section R102—Applicability.

R102.7.2 Moved buildings. Buildings or structures moved into or within a jurisdiction shall comply with the provisions of this code, the International Building Code (chapter 51-50 WAC), the International Mechanical Code (chapter 51-52 WAC), the International Fire Code (chapter 51-54 WAC), the Uniform Plumbing Code and Standards (chapters 51-56 and 51-57 WAC), the Washington State Energy Code (chapter 51-11 WAC) and the Washington State Ventilation and Indoor Air Quality Code (chapter 51-13 WAC) for new buildings or structures.

EXCEPTION: Group R-3 buildings or structures are not required to comply if:

1. The original occupancy classification is not changed; and

2. The original building is not substantially remodeled or rehabilitated.

For the purposes of this section a building shall be considered to be substantially remodeled when the costs of remodeling exceed 60 percent of the value of the building exclusive of the costs relating to preparation, construction, demolition or renovation of foundations.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-0102, filed 12/17/03, effective 7/1/04.]

WAC 51-51-0202 Section R202—Definitions.

ADULT FAMILY HOME means a dwelling in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

CHILD DAY CARE, shall, for the purposes of these regulations, mean the care of children during any period of a 24 hour day.

CHILD DAY CARE HOME, FAMILY is a child day care facility, licensed by the state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

UNUSUALLY TIGHT CONSTRUCTION. Construction meeting the following requirements:

1. Walls exposed to the outside atmosphere having a continuous water vapor retarder with a rating of 1 perm (57 ng/s·m^2·Pa) or less with openings gasketed or sealed;

2. Openable windows and doors meeting the air leakage requirements of the *International Energy Conservation Code,* Section 502.1.4; and

3. Caulking or sealants are applied to areas such as joints around window and door frames, between sole plates and floors, between wall-ceiling joints, between wall panels, at penetrations for plumbing, electrical and gas lines, and at other openings; or

4. Buildings built in compliance with the 1986 or later editions of the Washington State Energy Code chapter 51-11 WAC, Northwest Energy Code, or Super Good Cents weatherization standards or equivalent.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-0202, filed 12/17/03, effective 7/1/04.]

WAC 51-51-0303 Section R303—Light, ventilation and heating.

R303.8.1 Definitions. For the purposes of this section only, the following definitions apply.

DESIGNATED AREAS are those areas designated by a county to be an urban growth area in chapter 36.70A RCW and those areas designated by the U.S. Environmental Protection Agency as being in nonattainment for particulate matter.

SUBSTANTIALLY REMODELED means any alteration or restoration of a building exceeding 60 percent of the appraised value of such building within a 12 month period. For the purpose of this section, the appraised value is the estimated cost to replace the building and structure in kind, based on current replacement costs.

R303.8.2 Primary Heating Source. Primary heating sources in all new and substantially remodeled buildings in designated areas shall not be dependent upon wood stoves.

R303.8.3 Solid Fuel Burning Devices. No used solid fuel burning device shall be installed in new or existing buildings unless such device is United States Environmental Protection Agency certified or a pellet stove either certified or exempt from certification by the United States Environmental Protection Agency.

EXCEPTION: Antique wood cook stoves and heaters manufactured prior to 1940.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-0303, filed 12/17/03, effective 7/1/04.]

WAC 51-51-0311 Section R311—Means of egress.

R311.1 General. Stairways, ramps, exterior exit balconies, hallways and doors shall comply with this section.

EXCEPTION: Stairs or ladders within an individual dwelling unit used to gain access to areas of 200 square feet (18.6 m^2) or less, and not containing the primary bathroom or kitchen.

R311.6.3.3 Continuity. Handrails where required on ramps shall be continuous for the full length of the ramp. Handrail ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1.5 inches (38 mm) between the wall

and the handrails. At least one handrail shall extend in the direction of ramp run not less than 12 inches (305 mm) horizontally beyond the top and bottom of the ramp runs.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-0311, filed 12/17/03, effective 7/1/04.]

WAC 51-51-0313 Section R313—Smoke alarms.

R313.3 Family child day care homes. In family child day care homes operable smoke alarms shall be located in all sleeping and napping areas. When the family child day care home has more than one story, and in family child day care homes with basements, an operable smoke alarm shall be installed on each story and in the basement. In family child day care homes where a story or basement is split into two or more levels, the smoke alarm shall be installed in the upper level, except that when the lower level contains a sleeping or napping area, an operable smoke alarm shall be located on each level. When sleeping rooms are on an upper level, the smoke alarm shall be placed at the ceiling of the upper level in close proximity to the stairway. In family child day care homes where the ceiling height of a room open to the hallway serving the bedrooms exceeds that of the hallway by 24 inches or more, smoke alarms shall be installed in the hallway and the adjacent room. Smoke alarms shall sound an alarm audible in all areas of the building.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-0313, filed 12/17/03, effective 7/1/04.]

WAC 51-51-0324 Section R324—Adult family homes.

SECTION R324
ADULT FAMILY HOMES

R324.1 General. This section shall apply to all newly constructed adult family homes and all existing single family homes being converted to adult family homes. This section shall not apply to those adult family homes licensed by the state of Washington department of social and health services prior to July 1, 2001.

R324.2 Submittal Standards. In addition to those requirements in Section 106.1, the submittal shall identify the project as a Group R-3 Adult Family Home Occupancy. A floor plan shall be submitted identifying the means of egress and the components in the means of egress such as stairs, ramps, platform lifts and elevators. The plans shall indicate the rooms used for clients and the sleeping room classification of each room.

R324.3 Sleeping Room Classification. Each sleeping room in an adult family home shall be classified as:

1. Type S - where the means of egress contains stairs, elevators or platform lifts.

2. Type NS1 - where one means of egress is at grade level or a ramp constructed in accordance with R311.6 is provided.

3. Type NS2 - where two means of egress are at grade level or ramps constructed in accordance with R311.6 are provided.

R324.4 Types of Locking Devices. All bedroom and bathroom doors shall be openable from the outside when locked.

Every closet shall be readily openable from the inside.

R324.5 Smoke Alarm Requirements. All adult family homes shall be equipped with smoke alarms installed as required in Section R313. Alarms shall be installed in such a manner so that the fire warning may be audible in all parts of the dwelling upon activation of a single device.

R324.6 Escape Windows and Doors. Every sleeping room shall be provided with emergency escape and rescue windows as required by Section R310.

R324.7 Fire Apparatus Access Roads and Water Supply for Fire Protection. Adult family homes shall be served by fire apparatus access roads and water supplies meeting the requirements of the local jurisdiction.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-0324, filed 12/17/03, effective 7/1/04.]

WAC 51-51-0325 Section R325—Family child day care homes.

SECTION R325
FAMILY CHILD DAY CARE HOMES

R325 Family Child Day Care Homes. For family child day care homes with more than six children, each floor level used for family child day care purposes shall be served by two remote means of egress. Exterior exit doors shall be operable from the inside without the use of keys or any special knowledge or effort.

Basements located more than 4 feet below grade level shall not be used for family child day care homes unless one of following conditions exist:

1. Stairways from the basement open directly to the exterior of the building without entering the first floor; or

2. One of the two required means of egress discharges directly to the exterior from the basement level, and a self closing door is installed at the top or bottom of the interior stair leading to the floor above; or

3. One of the two required means of egress is an operable window or door, approved for emergency escape or rescue, that opens directly to a public street, public alley, yard or exit court; or

4. A residential sprinkler system is provided throughout the entire building in accordance with National Fire Protection Association Standard 13d.

Floors located more than 4 feet above grade level shall not be occupied by children in family day care homes.

EXCEPTIONS: 1. Use of toilet facilities while under supervision of an adult staff person.
2. Family child day care homes may be allowed on the second story if one of the following conditions exists:
2.1 Stairways from the second story open directly to the exterior of the building without entering the first floor; or
2.2 One of the two required means of egress discharges directly to the exterior from the second story level, and a self-closing door is installed at the top or bottom of the interior stair leading to the floor below; or

2.3 A residential sprinkler system is provided throughout the entire building in accordance with National Fire Protection Association Standard 13d.

Every sleeping or napping room in a family child day care home shall have at least one operable window for emergency rescue.

EXCEPTION: Sleeping or napping rooms having doors leading to two separate means of egress, or a door leading directly to the exterior of the building.

Rooms or spaces containing a commercial-type cooking kitchen, boiler, maintenance shop, janitor closet, laundry, woodworking shop, flammable or combustible storage, or painting operation shall be separated from the family child day care area by at least one-hour fire-resistive construction.

EXCEPTION: A fire-resistive separation shall not be required where the food preparation kitchen contains only a domestic cooking range, and the preparation of food does not result in the production of smoke or grease laden vapors.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-0325, filed 12/17/03, effective 7/1/04.]

WAC 51-51-1004 Section R1004—Factory-built fireplaces.

R1004.1.1 Emission Standards for Factory-built Fireplaces. After January 1, 1997, no new or used factory-built fireplace shall be installed in Washington state unless it is certified and labeled in accordance with procedures and criteria specified in the Washington State Building Code Standard 31-2.

To certify an entire fireplace model line, the internal assembly shall be tested to determine its particulate matter emission performance. Retesting and recertifying is required if the design and construction specifications of the fireplace model line internal assembly change. Testing for certification shall be performed by a Washington state department of ecology (DOE) approved and U.S. Environmental Protection Agency (EPA) accredited laboratory.

R1004.1.2 Emission Standards for Certified Masonry and Concrete Fireplaces. After January 1, 1997, new certified masonry or concrete fireplaces installed in Washington state shall be tested and labeled in accordance with procedures and criteria specified in the Washington State Building Code Standard 31-2.

To certify an entire fireplace model line, the internal assembly shall be tested to determine its particulate matter emission performance. Retesting and recertifying is required if the design and construction specifications of the fireplace model line internal assembly change. Testing for certification shall be performed by a Washington state department of ecology (DOE) approved and U.S. Environmental Protection Agency (EPA) accredited laboratory.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-1004, filed 12/17/03, effective 7/1/04.]

WAC 51-51-2000 Chapter 20—Boilers and water heaters.

Boilers and Unfired Pressure Vessels are regulated by chapter 70.79 RCW and chapter 296-104 WAC.

SECTION M2001—BOILERS, is not adopted.

SECTION M2002—OPERATING AND SAFETY CONTROLS, is not adopted.

SECTION M2003—EXPANSION TANKS, is not adopted.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-2000, filed 12/17/03, effective 7/1/04.]

WAC 51-51-2401 Section G2401 (101)—General.

G2401.1 (101.2) Application. This chapter covers those fuel-gas piping systems, fuel-gas utilization equipment and related accessories, venting systems and combustion air configurations most commonly encountered in the construction of one- and two-family dwellings and structures regulated by this code.

EXCEPTIONS: 1. As an alternative to the provisions of this code, fuel-gas piping systems, fuel-gas utilization equipment and related accessories in existing buildings that are undergoing repairs, alterations, changes in occupancy or construction of additions shall be permitted to comply with the provisions of the *International Existing Building Code.*

2. The standards for liquefied petroleum gas installations shall be NFPA 58 (Liquefied Petroleum Gas Code) and ANSI Z223.1/NFPA 54 (National Fuel Gas Code).

Coverage of piping systems shall extend from the point of delivery to the outlet of the equipment shutoff valves (see "Point of delivery"). Piping systems requirements shall include design, materials, components, fabrication, assembly, installation, testing, inspection, operation and maintenance. Requirements for gas utilization equipment and related accessories shall include installation, combustion and ventilation air and venting and connections to piping systems.

The omission from this chapter of any material or method of installation provided for in the *International Fuel Gas Code* shall not be construed as prohibiting the use of such material or method of installation. Fuel-gas piping systems, fuel-gas utilization equipment and related accessories, venting systems and combustion air configurations not specifically covered in these chapters shall comply with the applicable provisions of the *International Fuel Gas Code*.

Gaseous hydrogen systems shall be regulated by Chapter 7 of the *International Fuel Gas Code.*

This chapter shall not apply to the following:

1. Liquified natural gas (LNG) installations.

2. Temporary LP-gas piping for buildings under construction or renovation that is not to become part of the permanent piping system.

3. Except as provided in Section G2412.1.1, gas piping, meters, gas pressure regulators, and other appurtenances used by the serving gas supplier in the distribution of gas, other than undiluted LP-gas.

4. Portable LP-gas equipment of all types that is not connected to a fixed fuel piping system.

5. Portable fuel cell appliances that are neither connected to a fixed piping system nor interconnected to a power grid.

6. Installation of hydrogen gas, LP-gas and compressed natural gas (CNG) systems on vehicles.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-2401, filed 12/17/03, effective 7/1/04.]

WAC 51-51-2415 Section G2415 (404)—Piping system installation.

G2415.8 (404.8) Protection against corrosion. Metallic pipe or tubing exposed to corrosive action, such as soil condition or moisture, shall be protected in an approved manner, and cathodically protected in accordance with NACE RP-01-69. Zinc coatings (galvanizing) shall not be deemed adequate protection for gas piping underground. Ferrous metal exposed in exterior locations shall be protected from corrosion in a manner satisfactory to the code official. Where dissimilar metals are joined underground, an insulation coupling or fitting shall be used. Piping shall not be laid in contact with cinders.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-2415, filed 12/17/03, effective 7/1/04.]

WAC 51-51-4300 Chapter 43—Referenced standards.

Washington State Building Code Standard 31-2
STANDARD TEST METHOD FOR PARTICULATE EMISSIONS FROM FIREPLACES

(Insert following page 524)
See Section R1004.1, *International Residential Code* Standard is located in *International Building Code*, Chapter 35

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-109, § 51-51-4300, filed 12/17/03, effective 7/1/04.]

Chapter 51-52 WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE 2003 EDITION OF THE INTERNATIONAL MECHANICAL CODE

(Formerly chapter 51-42 WAC)

WAC

51-52-001	Authority.
51-52-002	Purpose.
51-52-003	International Mechanical Code.
51-52-004	Conflict between International Mechanical Code and State Energy Code chapter 51-11 WAC.
51-52-005	Conflict between International Mechanical Code and State Ventilation and Indoor Air Quality Code chapter 51-13 WAC.
51-52-007	Exceptions.
51-52-008	Implementation.
51-52-0101	Section 101—General.
51-52-0202	Section 202—General definitions.
51-52-0601	Section 601—General.
51-52-1000	Chapter 10—Boilers, water heaters and pressure vessels.
51-52-21000	International Fuel Gas Code.
51-52-21404	Section 404—Piping system installation.
51-52-22000	National Fuel Gas Code.
51-52-22006	Chapter 6—Gas piping installation.

WAC 51-52-001 Authority. These rules are adopted under the authority of chapter 19.27 RCW.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-001, filed 12/17/03, effective 7/1/04.]

WAC 51-52-002 Purpose. The purpose of these rules is to implement the provisions of chapter 19.27 RCW, which provides that the state building code council shall maintain the State Building Code in a status which is consistent with the purpose as set forth in RCW 19.27.020. In maintaining the codes the council shall regularly review updated versions of the codes adopted under the act, and other pertinent information, and shall amend the codes as deemed appropriate by the council.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-002, filed 12/17/03, effective 7/1/04.]

WAC 51-52-003 International Mechanical Code. The 2003 edition of the *International Mechanical Code* published by the International Code Conference is hereby adopted by reference with the exceptions noted in this chapter of the Washington Administrative Code (WAC).

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-003, filed 12/17/03, effective 7/1/04.]

WAC 51-52-004 Conflict between International Mechanical Code and State Energy Code chapter 51-11 WAC. In the case of conflict between the duct sealing or insulation requirements of Section 603 or Section 604 of this code and the duct sealing or insulation requirements of chapter 51-11 WAC, the Washington State Energy Code, or where applicable, a local jurisdiction's energy code, the provisions of such energy codes shall govern.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-004, filed 12/17/03, effective 7/1/04.]

WAC 51-52-005 Conflict between International Mechanical Code and State Ventilation and Indoor Air Quality Code chapter 51-13 WAC. In the case of conflict between the Group R ventilation requirements of this code and the Group R ventilation requirements of chapter 51-13 WAC, the Washington State Ventilation and Indoor Air Quality Code, the provisions of the Ventilation and Indoor Air Quality Code shall govern.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-005, filed 12/17/03, effective 7/1/04.]

WAC 51-52-007 Exceptions. The exceptions and amendments to the International Mechanical Code contained in the provisions of chapter 19.27 RCW shall apply in case of conflict with any of the provisions of these rules.

The provisions of this code do not apply to temporary growing structures used solely for the commercial production of horticultural plants including ornamental plants, flowers, vegetables, and fruits. "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention. A temporary growing structure is not considered a building for purposes of this code.

Codes referenced which are not adopted through RCW 19.27.031 or chapter 19.27A RCW shall not apply unless specifically adopted by the authority having jurisdiction.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-007, filed 12/17/03, effective 7/1/04.]

WAC 51-52-008 Implementation. The International Mechanical Code adopted by chapter 51-52 WAC shall become effective in all counties and cities of this state on July 1, 2004.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-008, filed 12/17/03, effective 7/1/04.]

WAC 51-52-0101 Section 101—General.

101.2 Scope. This code shall regulate the design, installation, maintenance, alteration and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings. This code shall also regulate those mechanical systems, system components, equipment and appliances specifically addressed herein. The installation of fuel gas distribution piping and equipment, fuel gas-fired appliances and fuel gas-fired appliance venting systems shall be regulated by the *International Fuel Gas Code*.

EXCEPTIONS: 1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the *International Residential Code*.

2. Mechanical systems in existing buildings undergoing repair, alterations, or additions, and change of occupancy shall be permitted to comply with the *International Existing Building Code*.

3. The standards for liquefied petroleum gas installations shall be the 2001 Edition of NFPA 58 (Liquefied Petroleum Gas Code) and the 2002 Edition of ANSI Z223.1/NFPA 54 (National Fuel Gas Code).

101.5 Other authorities. In addition to the International Mechanical Code, provisions of chapter 480-93 WAC regarding gas pipeline safety may also apply to single meter installations serving more than one building. The provisions of chapter 480-93 WAC are enforced by the Washington utilities and transportation commission.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-0101, filed 12/17/03, effective 7/1/04.]

WAC 51-52-0202 Section 202—General definitions.

UNUSUALLY TIGHT CONSTRUCTION. Construction meeting the following requirements:

1. Walls exposed to the outside atmosphere having a continuous water vapor retarder with a rating of 1 perm (57 ng/s·m²·Pa) or less with openings gasketed or sealed; and

2. Openable windows and doors meeting the air leakage requirements of the *International Energy Conservation Code,* Section 502.1.4; and

3. Caulking or sealants are applied to areas such as joints around window and door frames, between sole plates and floors, between wall-ceiling joints, between wall panels, at penetrations for plumbing, electrical and gas lines, and at other openings; or

4. Buildings built in compliance with the 1986 or later editions of the Washington State Energy Code, chapter 51-11 WAC, Northwest Energy Code, or Super Good Cents weatherization standards or equivalent.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-0202, filed 12/17/03, effective 7/1/04.]

WAC 51-52-0601 Section 601—General.

601.2 Air movement in egress elements. Exit access corridors shall not serve as supply, return, exhaust, relief or ventilation air ducts.

EXCEPTIONS: 1. Use of a corridor as a source of makeup air for exhaust systems in rooms that open directly onto such corridors, including toilet rooms, bathrooms, dressing rooms, smoking lounges and janitor closets, shall be permitted provided that each such corridor is directly supplied with outdoor air at a rate greater than the rate of makeup air taken from the corridor.

2. Where located within a dwelling unit, the use of corridors for conveying return air shall not be prohibited.

3. Where located within tenant spaces of one thousand square feet (93 m^2) or less in area, utilization of corridors for conveying return air is permitted.

4. Where such air is part of an engineered smoke control system.

5. Corridors conforming to the International Building Code in Group I occupancies.

6. Corridors serving residential occupancies shall be permitted to be supplied without specific mechanical exhaust subject to the following:

6.1 The supply air is one hundred percent outside air; and

6.2 The units served by the corridor have conforming ventilation independent of the air supplied to the corridor; and

6.3 For other than high-rise buildings, the supply fan will automatically shut off upon activation of corridor smoke detectors which shall be spaced at no more than thirty feet (9,144 mm) on center along the corridor; or

6.4 For high-rise buildings, corridor smoke detector activation will close required smoke/fire dampers at the supply inlet to the corridor at the floor receiving the alarm.

601.3 Contamination prevention. Exhaust ducts under positive pressure, chimneys, and vents shall not extend into or pass through ducts or plenums.

EXCEPTION: Exhaust ducts conveying environmental air shall be permitted to pass through a duct or plenum provided that:

1. The duct is maintained under sufficient negative pressure to prevent leakage of the exhaust air to the surrounding duct or plenum; or

2. If maintained under a positive pressure with respect to the surrounding duct or plenum, the exhaust duct will be sealed to prevent leakage; or

3. The surrounding air stream is an exhaust air stream not intended for recirculation to the building and cross-contamination of the two air streams will not create a hazardous condition.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-0601, filed 12/17/03, effective 7/1/04.]

WAC 51-52-1000 Chapter 10—Boilers, water heaters and pressure vessels.

SECTIONS 1003 THROUGH 1011, are not adopted.

Boilers and Unfired Pressure Vessels are regulated by chapter 70.79 RCW and chapter 296-104 WAC.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-1000, filed 12/17/03, effective 7/1/04.]

WAC 51-52-21000 International Fuel Gas Code.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-21000, filed 12/17/03, effective 7/1/04.]

WAC 51-52-21404 Section 404—Piping system installation.

404.8 Protection against corrosion. Metallic pipe or tubing exposed to corrosive action, such as soil condition or moisture, shall be protected in an approved manner, and cathodically protected in accordance with NACE RP-01-69. Zinc coatings (galvanizing) shall not be deemed adequate protection for gas piping underground. Ferrous metal exposed in exterior locations shall be protected from corrosion in a manner satisfactory to the code official. Where dissimilar metals are joined underground, an insulation coupling or fitting shall be used. Piping shall not be laid in contact with cinders.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-21404, filed 12/17/03, effective 7/1/04.]

WAC 51-52-22000 National Fuel Gas Code.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-22000, filed 12/17/03, effective 7/1/04.]

WAC 51-52-22006 Chapter 6—Gas piping installation.

6.1.3 Protection Against Corrosion. Metallic gas piping in contact with earth or other material that could corrode the piping shall be protected against corrosion in an approved manner, and cathodically protected in accordance with NACE RP-01-69. When dissimilar metals are joined underground, an insulating coupling or fitting shall be used. Piping shall not be laid in contact with cinders. Uncoated threaded or socket welded joints shall not be used in piping in contact with soil or where internal or external crevice corrosion is known to occur.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-104, § 51-52-22006, filed 12/17/03, effective 7/1/04.]

Chapter 51-54 WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE 2003 EDITION OF THE INTERNATIONAL FIRE CODE

(Formerly chapters 51-44 and 51-45 WAC)

WAC

51-54-001 Authority.
51-54-002 Purpose.
51-54-003 International Fire Code.
51-54-007 Exceptions.
51-54-008 Implementation.
51-54-0100 Chapter 1—Administration.
51-54-0200 Chapter 2—Definitions.
51-54-0300 Chapter 3—General precautions against fire.
51-54-0500 Chapter 5—Fire service features.
51-54-0900 Chapter 9—Fire protection systems.
51-54-1000 Chapter 10—Means of egress.
51-54-3000 Chapter 30—Compressed gasses.
51-54-3300 Chapter 33—Explosives and fireworks.
51-54-3400 Chapter 34—Flammable and combustible liquids.

WAC 51-54-001 Authority. These rules are adopted under the authority of chapter 19.27 RCW.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-001, filed 12/17/03, effective 7/1/04.]

WAC 51-54-002 Purpose. The purpose of these rules is to implement the provisions of chapter 19.27 RCW, which provides that the State Building Code council shall maintain the State Building Code in a status which is consistent with the purpose as set forth in RCW 19.27.020. In maintaining the codes the council shall regularly review updated versions of the codes adopted under the act, and other pertinent information, and shall amend the codes as deemed appropriate by the council.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-002, filed 12/17/03, effective 7/1/04.]

WAC 51-54-003 International Fire Code. The 2003 edition of the International Fire Code, published by the International Code Council is hereby adopted by reference with the following additions, deletions, and exceptions.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-003, filed 12/17/03, effective 7/1/04.]

WAC 51-54-007 Exceptions. The exceptions and amendments to the International Fire Code contained in the provisions of chapter 19.27 RCW shall apply in case of conflict with any of the provisions of these rules.

Codes referenced which are not adopted through RCW 19.27.031 or chapter 19.27A RCW shall not apply unless specifically adopted by the authority having jurisdiction.

The provisions of this code do not apply to temporary growing structures used solely for the commercial production of horticultural plants including ornamental plants, flowers, vegetables, and fruits. "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention. A temporary growing structure is not considered a building for purposes of this code.

The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter 70.114A RCW or chapter 37, Laws of 1998 (SB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

The manufacture, storage, handling, sale and use of fireworks shall be governed by chapter 70.77 RCW and by chapter 212-17 WAC and local ordinances consistent with chapter 212-17 WAC.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-007, filed 12/17/03, effective 7/1/04.]

WAC 51-54-008 Implementation. The International Fire Code adopted by chapter 51-54 WAC shall become effective in all counties and cities of this state on July 1, 2004.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-008, filed 12/17/03, effective 7/1/04.]

WAC 51-54-0100 Chapter 1—Administration.

105.6.17 Flammable or combustible liquids. An operational permit is required:

1. To use or operate a pipeline for the transportation within facilities of flammable or combustible liquids. This requirement shall not apply to the off-site transportation in pipelines regulated by the department of transportation (DOT) nor does it apply to piping systems.

2. To store, handle or use Class I liquids in excess of 5 gallons (19 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following:

2.1 The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the code official, would cause an unsafe condition.

2.2 The storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.

3. To store, handle or use Class II or Class III-A liquids in excess of 25 gallons (95 L) in a building or in excess of 60 gallons (227 L) outside a building, except for fuel oil used in connection with oil-burning equipment.

4. To remove Class I or Class II liquids from an underground storage tank used for fueling motor vehicles by any means other than the approved, stationary on-site pumps normally used for dispensing purposes.

5. To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.

6. To place temporarily out-of-service (for more than 90 days) an underground, protected above-ground or above-ground flammable or combustible liquid tank.

7. To change the type of contents stored in a flammable or combustible liquid tank to a material which poses a greater hazard than that for which the tank was designed and constructed.

8. To manufacture, process, blend or refine flammable or combustible liquids.

9. To engage in the dispensing of liquid fuels into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments.

10. To utilize a site for the dispensing of liquid fuels from tank vehicles into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments.

11. To utilize a site for the dispensing of liquid fuels from tank vehicles into the fuel tanks of marine craft and special equipment at commercial, industrial, governmental or manufacturing establishments.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-0100, filed 12/17/03, effective 7/1/04.]

WAC 51-54-0200 Chapter 2—Definitions.

SECTION 202 GENERAL DEFINITIONS.

ADULT FAMILY HOME means a dwelling in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

CHILD DAY CARE, shall, for the purposes of these regulations, mean the care of children during any period of a 24-hour day.

ELECTRICAL CODE is the National Electrical Code, promulgated by the National Fire Protection Association, as adopted in chapter 296-46 WAC, or the locally adopted Electrical Code.

FAMILY CHILD DAY CARE HOME is a child day care facility, licensed by the state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

EDUCATIONAL GROUP E. Educational Group E Occupancy includes, among others, the use of a building or structure, or a portion thereof, by six or more persons at any one time for educational purposes through the 12th grade. Religious educational rooms and religious auditoriums, which are accessory to churches in accordance with Section 302.2 of the IBC and have occupant loads of less than 100, shall be classified as Group A-3 Occupancies.

Day Care. The use of a building or structure, or portion thereof, for educational, supervision or personal care services for more than five children older than 2 1/2 years of age, shall be classified as a Group E Occupancy.

EXCEPTION: Family child day care homes licensed by the Washington state department of social and health services for the care of twelve or fewer children shall be classified as Group R3.

INSTITUTIONAL GROUP I. Institutional Group I Occupancy includes, among others, the use of a building or structure, or a portion thereof, in which people, cared for or living in a supervised environment and having physical limitations because of health or age, are harbored for medical treatment or other care or treatment, or in which people are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Institutional occupancies shall be classified as Group I-1, I-2, I-3 or I-4.

Group I-1. This occupancy shall include buildings, structures or parts thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following:

Residential board and care facilities
Assisted living facilities
Halfway houses
Group homes
Congregate care facilities
Social rehabilitation facilities
Alcohol and drug centers
Convalescent facilities

A facility such as the above with five or fewer persons and adult family homes licensed by the Washington state department of social and health services shall be classified as a Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2. A facility such as above, housing at least six and not more than 16 persons, shall be classified as Group R-4.

A facility such as the above providing licensed care to clients in one of the categories listed in Section 313.1 regulated by either the Washington department of health or the department of social and health services shall be classified as Licensed Care Group LC.

Group I-2. This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than five persons who are not capable of self-preservation. This group shall include, but not be limited to, the following:

Hospitals

Nursing homes (both intermediate-care facilities and skilled nursing facilities)

Mental hospitals

Detoxification facilities

A facility such as the above with five or fewer persons shall be classified as Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2.

A facility such as the above providing licensed care to clients in one of the categories listed in Section 313.1 regulated by either the Washington department of health or the department of social and health services shall be classified as Licensed Care Group LC.

Group I-3. (Remains as printed in the IFC.)

Group I-4. Day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood marriage, or adoption, and in a place other than the home of the person cared for. A facility such as the above with five or fewer persons shall be classified as Group R-3 or shall comply with the *International Residential Code*. Places of worship during religious functions are not included.

Adult care facility. A facility that provides accommodations for less than 24 hours for more than five unrelated adults and provides supervision and personal care services shall be classified as Group I-4.

EXCEPTION: Where the occupants are capable of responding to an emergency situation without physical assistance from the staff, the facility shall be classified as Group A-3.

Child care facility. A facility that provides supervision and personal care on a less than 24-hour basis for more than five children 2 1/2 years of age or less shall be classified as Group I-4.

EXCEPTIONS: 1. A child day care facility that provides care for more than five but no more than 100 children 2 1/2 years or less of age, when the rooms where such children are cared for are located on the level of exit discharge and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

2. Family child day care homes licensed by the Washington state department of social and health services for the care of 12 or fewer children shall be classified as Group R3.

RESIDENTIAL GROUP R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or Licensed Care Group LC. Residential occupancies shall include the following:

R-1 Residential occupancies where the occupants are primarily transient in nature, including:

Boarding houses (transient)

Hotels (transient)

Motels (transient)

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

Apartment houses

Boarding houses (not transient)

Convents

Dormitories

Fraternities and sororities

Monasteries

Vacation timeshare properties

Hotels (nontransient)

Motels (nontransient)

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4 or I and where buildings do not contain more than two dwelling units as applicable in Section 101.2, including adult family homes and family child day care homes for the care of 12 or fewer children, licensed by the Washington state department of social and health services, or adult and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours. Adult family homes and family child day care homes, or adult and child care facilities that are within a single-family home are permitted to comply with the *International Residential Code* in accordance with Section 101.2.

Foster family care homes licensed by the Washington state department of social and health services shall be permitted, as an accessory use to a dwelling, for six or fewer children including those of the resident family.

R-4 Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff.

EXCEPTION: Adult family homes, family child day care homes and foster family care homes shall be classified as Group R-3.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the *International Residential Code* in accordance with Section 101.2.

LICENSED CARE GROUP LC. Licensed Care Group LC includes the use of a building, structure, or portion thereof, for the business of providing licensed care to clients in one of the following categories regulated by either the Washington department of health or the department of social and health services:

1. Adult residential rehabilitation facility.
2. Alcoholism intensive inpatient treatment service.
3. Alcoholism detoxification service.
4. Alcoholism long-term treatment service.
5. Alcoholism recovery house service.
6. Boarding home.
7. Group care facility.
8. Group care facility for severely and multiple handicapped children.
9. Residential treatment facility for psychiatrically impaired children and youth.

EXCEPTION: Where the care provided at an alcoholism detoxification service is acute care similar to that provided in a hospital, the facility shall be classified as a Group I-2 Occupancy.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-0200, filed 12/17/03, effective 7/1/04.]

WAC 51-54-0300 Chapter 3—General precautions against fire.

307.2.1 Authorization. Where required by state or local law or regulations, open burning shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed. See also chapter 173-425 WAC.

307.3.2 Recreational fires. Recreational fires shall not be conducted within 25 feet of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet of a structure shall be eliminated prior to ignition. See also chapter 173-425 WAC.

308.3.4 Aisles and exits. Candles shall be prohibited in areas where occupants stand, or in an aisle or exit.

EXCEPTION: Candles used in religious ceremonies. See RCW 19.27.031(3).

308.3.5 Religious ceremonies. Participants in religious ceremonies shall not be precluded from carrying hand-held candles.

308.3.7 Group A Occupancies. Open-flame devices shall not be used in a Group A Occupancy.

EXCEPTIONS: 1. Open-flame devices are allowed to be used in the following situations:
1.1 Where necessary for ceremonial or religious purposes in accordance with Section 308.5.
1.2 On stages and platforms as a necessary part of a performance in accordance with Section 308.6, provided approved precautions are taken to prevent ignition of a combustible material or injury to occupants.
1.3 Where candles on tables are securely supported on substantial noncombustible bases and the candle flames are protected provided approved precautions are taken to prevent ignition of a combustible material or injury to occupants.
2. Heat-producing equipment complying with Chapter 6 and the International Mechanical Code.
3. Gas lights are allowed to be used provided adequate precautions satisfactory to the fire code official are taken to prevent ignition of combustible materials.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-0300, filed 12/17/03, effective 7/1/04.]

WAC 51-54-0500 Chapter 5—Fire service features.

SECTION 503 FIRE APPARATUS ACCESS ROADS.

503.1 Where required. Fire apparatus access roads shall be provided and maintained in accordance with locally adopted street, road, and access standards.

503.1.1 Buildings and facilities, is not adopted.

503.1.2 Additional access, is not adopted.

503.1.3 High-piled storage, is not adopted.

503.2 Specifications. This section is not adopted.

503.3 Marking. This section is not adopted.

503.4 Obstruction of fire apparatus access roads. This section is not adopted.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-0500, filed 12/17/03, effective 7/1/04.]

WAC 51-54-0900 Chapter 9—Fire protection systems.

902.1 Definitions.

PORTABLE SCHOOL CLASSROOM. A structure, transportable in one or more sections, which requires a chassis to be transported, and is designed to be used as an educational space with or without a permanent foundation. The structure shall be trailerable and capable of being demounted and relocated to other locations as needs arise.

903.2.1.2 Group A-2. An automatic sprinkler system shall be provided for Group A-2 Occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (464.5 m^2).
2. The fire area has an occupant load of 100 or more.
3. The fire area is located on a floor other than the level of exit discharge.

903.2.2 Group E. An automatic sprinkler system shall be provided for Group E Occupancies as follows:

1. Throughout all Group E fire areas greater than 20,000 square feet (1858 m^2) in area.

2. Throughout every portion of educational buildings below the level of exit discharge.

EXCEPTION: An automatic sprinkler system is not required in any fire area or area below the level of exit discharge where every classroom throughout the building has at least one exterior exit door at ground level.

3. Throughout all newly constructed Group E Occupancies having an occupant load of 50 or more for more than 12 hours per week or four hours in any one day. A minimum water supply meeting the requirements of NFPA 13 shall be required. The fire code official may reduce fire flow requirements for buildings protected by an approved automatic sprinkler system.

For the purpose of this section, additions exceeding 60 percent of the value of such building or structure, or alterations and repairs to any portion of a building or structure within a twelve-month period that exceeds 100 percent of the value of such building or structure shall be considered new construction. In the case of additions, fire walls shall define separate buildings.

EXCEPTIONS: 1. Portable school classrooms, provided aggregate area of clusters of portable school classrooms does not exceed 5,000 square feet (1465 m^2); and clusters of portable school classrooms shall be separated as required in Chapter 5 of the building code.
2. Group E Day Care.

When not required by other provisions of this chapter, a fire-extinguishing system installed in accordance with NFPA 13 may be used for increases and substitutions allowed in Section 504.2, 506.3, and Table 601 of the building code.

903.2.10.3 Buildings over 75 feet in height. An automatic sprinkler system shall be installed throughout buildings with a floor level having an occupant load of 30 or more that is

located 75 feet (22 860 mm) or more above the lowest level of fire department vehicle access.

EXCEPTIONS: 1. Airport control towers.
2. Open parking structures.
3. Occupancies in Group F-2.

909.6.3 Elevator shaft pressurization. Where elevator shaft pressurization is required to comply with Exception 5 of Section 707.14.1, the pressurization system shall comply with the following.

909.6.3.1 Standards and testing. Elevator shafts shall be pressurized to not less than 0.10 inch water column relative to atmospheric pressure. Elevator pressurization shall be measured with the elevator cars at the designated primary recall level with the doors in the open position. The test shall be conducted at the location of the calculated maximum positive stack effect in the elevator shaft. The measured pressure shall be sufficient to provide 0.10 inch of water column as well as accounting for the stack and wind effect expected on the mean low temperature January day.

909.6.3.2 Activation. The elevator shaft pressurization system shall be activated by a fire alarm system which shall include smoke detectors or other approved detectors located near the elevator shaft on each floor as approved by the building official and fire chief. If the building has a fire alarm panel, detectors shall be connected to, with power supplied by, the fire alarm panel.

909.6.3.3 Separation. Elevator shaft pressurization equipment and its ductwork located within the building shall be separated from other portions of the building by construction equal to that required for the elevator shaft.

909.6.3.4 Location of intakes. Elevator shaft pressurization air intakes shall be located in accordance with Section 909.10.3. Such intakes shall be provided with smoke detectors which upon detection of smoke, shall deactivate the pressurization fan supplied by that air intake.

909.6.3.5 Power system. The power source for the fire alarm system and the elevator shaft pressurization system shall be in accordance with Section 909.11.

909.6.3.6 Hoistway venting. Hoistway venting required by IBC Section 3004 need not be provided for pressurized elevator shafts.

909.6.3.7 Machine rooms. Elevator machine rooms required to be pressurized by IBC Section 3006.3 need not be pressurized where separated from the hoistway shaft by construction in accordance with IBC Section 707.

909.6.3.8 Special inspection. Special inspection shall be required in accordance with Section 909.18.8.3 and IBC Section 1704.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-0900, filed 12/17/03, effective 7/1/04.]

WAC 51-54-1000 Chapter 10—Means of egress.

1008.1.2 Door swing. Egress doors shall be side-hinged swinging.

Exceptions: 1. Private garages, office areas, factory and storage areas with an occupant load of 10 or less.
2. Group I-3 Occupancies used as a place of detention.
3. Doors within or serving a single dwelling unit in Groups R-2 and R-3 as applicable in Section 101.2.
4. In other than Group H Occupancies, revolving doors complying with Section 1008.1.3.1.
5. In other than Group H Occupancies, horizontal sliding doors complying with Section 1008.1.3.3 are permitted in a means of egress.
6. Power-operated doors in accordance with Section 1008.1.3.1.

Doors shall swing in the direction of egress travel where serving an occupant load of 50 or more persons or a Group H Occupancy.

The opening force for interior side-swinging doors without closers shall not exceed a 5-pound force. For other side-swinging, sliding, and folding doors, the door latch shall release when subjected to a 15-pound force. The door shall be set in motion when subjected to a 30-pound force. The door shall swing to a full-open position when subjected to a 15-pound force. Forces shall be applied to the latch side. Within an accessible route, at exterior doors where environmental conditions require a closing pressure greater than 8.5 pounds, power-operated doors shall be used within the accessible route of travel.

1009.13 Stairs or ladders within an individual dwelling unit used to gain access to areas of 200 square feet (18.6 m^2) or less, and not containing the primary bathroom or kitchen, are exempt from the requirements of Section 1009.

1010.8 Handrails. Ramps with a rise greater than 6 inches (152 mm) shall have handrails on both sides complying with Section 1009.11. At least one handrail shall extend in the direction of ramp run not less than 12 inches (305 mm) horizontally beyond the top and bottom of the ramp runs.

1024.11 Assembly aisle walking surfaces. Aisles with a slope not exceeding one unit vertical in eight units horizontal (12.5-percent slope) shall consist of a ramp having a slip-resistant walking surface. Aisles with a slope exceeding one unit vertical in eight units horizontal (12.5-percent slope) shall consist of a series of risers and treads that extends across the full width of aisles and complies with Sections 1024.11.1 through 1024.11.3.

EXCEPTION: When provided with fixed seating, aisles in Group A-1 Occupancies shall be permitted to have a slope not steeper than one unit vertical in five units horizontal (20-percent slope).

1024.13 Handrails. Ramped aisles having a slope exceeding one unit vertical in 15 units horizontal (6.7-percent slope) and aisle stairs shall be provided with handrails located either at the side or within the aisle width.

EXCEPTIONS: 1. Handrails are not required for ramped aisles having a gradient no greater than one unit vertical in five units horizontal (20-percent slope) and seating on both sides.
2. Handrails are not required if, at the side of the aisle, there is a guard that complies with the graspability requirements of handrails.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-1000, filed 12/17/03, effective 7/1/04.]

WAC 51-54-3000 Chapter 30—Compressed gasses.

3006.1 General. Compressed gases at hospitals and similar facilities intended for inhalation or sedation including, but not limited to, analgesia systems for dentistry, podiatry, vet-

erinary and similar uses shall comply with this section in addition to other requirements of this chapter.

EXCEPTION: All distribution piping, supply manifolds, connections, regulators, valves, alarms, sensors and associated equipment stall be in accordance with the Plumbing Code.

3006.4 Medical gas systems. This section is not adopted.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-3000, filed 12/17/03, effective 7/1/04.]

WAC 51-54-3300 Chapter 33—Explosives and fireworks.

3301.1 Scope. The provisions of this chapter shall govern the possession, manufacture, storage, handling, sale and use of explosives, explosive materials, and small arms ammunition. The manufacture, storage, handling, sale and use of fireworks shall be governed by chapter 70.77 RCW, and by chapter 212-12 WAC and local ordinances consistent with chapter 212-17 WAC.

Exceptions: 1. The Armed Forces of the United States, Coast Guard or National Guard.
2. Explosives in forms prescribed by the official United States Pharmacopoeia.
3. The possession, storage and use of small arms ammunition when packaged in accordance with DOT packaging requirements.
4. The possession, storage and use of not more than 1 pound (0.454 kg) of commercially manufactured sporting black powder, 20 pounds (9 kg) of smokeless powder and 10,000 small arms primers for hand loading of small arms ammunition for personal consumption.
5. The use of explosive materials by federal, state and local regulatory, law enforcement and fire agencies acting in their official capacities.
6. Special industrial explosive devices in which the aggregate contain less than 50 pounds (23 kg) of explosive materials.
7. The possession, storage and use of blank industrial-power load cartridges when packaged in accordance with DOT packaging regulations.
8. Transportation in accordance with DOT 49 CFR Parts 100-178.
9. Items preempted by federal regulations.

3301.1.1 Explosive material standard. In addition to the requirements of this chapter, NFPA 495 shall govern the manufacture, transportation, storage, sale, handling and use of explosive materials. See also chapter 70.74 RCW and chapter 296-52 WAC.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-3300, filed 12/17/03, effective 7/1/04.]

WAC 51-54-3400 Chapter 34—Flammable and combustible liquids.

3402.1 Definitions.

MOTOR VEHICLE. For the purposes of this chapter, the term motor vehicle includes, but is not limited to, a vehicle, machine, tractor, trailer, or semi-trailer, or any combination thereof, propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property. The term "motor vehicle" also includes freight containers or cargo tanks used, or intended for use, in connection with motor vehicles. For reference, see 49 CFR Pt. 171.8 (October 1994).

3404.2.7.10.1 Leaking tank disposition. Leaking tanks shall be handled in accordance with WAC 173-360-325.

3404.2.7.11 Tank lining. Steel tanks are allowed to be lined only for the purpose of protecting the interior from corrosion or providing compatibility with a material to be stored. Only those liquids tested for compatibility with the lining material are allowed to be stored in lined tanks. Lining of leaking underground storage tanks shall be done in accordance with the provisions of WAC 173-360-325.

3404.2.8.7 Arrangement. Tanks shall be listed for aboveground use, and each tank shall be in its own vault.

EXCEPTION: Below-grade vaults may contain a maximum of three tanks.

Compartmentalized tanks shall be allowed and shall be considered as a single tank. Adjacent vaults shall be allowed to share a common wall. The common wall shall be liquid and vapor tight and shall be designed to withstand the load imposed when the vault on either side of the wall is filled with water.

3404.2.11 Underground tanks. Underground storage of flammable and combustible liquids in tanks shall comply with Section 3404.2 and Sections 3404.2.11.1 through 3404.2.11.5.2. Corrosion protection shall comply with WAC 173-360-305.

3405.4.1 Unit with a capacity of 60 gallons or less. Solvent distillation units used to recycle Class I, II or III-A liquids having a distillation chamber capacity of 60 gallons or less shall be listed, labeled and installed in accordance with Section 3405.4 and UL 2208.

EXCEPTIONS: 1. Solvent distillation units installed in dry-cleaning plants in accordance with Chapter 12.
2. Solvent distillation units used in continuous throughput industrial processes where the source of heat is remotely supplied using steam, hot water, oil or other heat transfer fluids, the temperature of which is below the autoignition point of the solvent.
3. Approved research, testing and experimental processes.

3406.5.4 Dispensing from tank vehicles and tank cars. Class I, II or III liquids shall be transferred from a tank vehicle or tank car only into an approved atmospheric tank or approved portable tank, except as provided in Sections 3406.5.4.1 through 3406.5.4.5.

3406.5.4.1 Marine craft and special equipment. Liquids intended for use as motor fuels are allowed to be transferred from tank vehicles into the fuel tanks of marine craft and special equipment when approved by the fire code official, and when:

1. The tank vehicle's specific function is that of supplying fuel to fuel tanks.

2. The operation is not performed where the public has access or where there is unusual exposure to life and property.

3. The dispensing line does not exceed 50 feet in length.

4. The dispensing nozzle is approved.

5. Each premises is issued a separate permit in accordance with Section 105.6.17.

3406.5.4.5 Commercial, industrial, governmental or manufacturing. Dispensing of Class II and III motor vehicle fuel from tank vehicles into the fuel tanks of motor vehicles located at commercial, industrial, governmental or manufac-

turing establishments is allowed where permitted, provided such dispensing operations are conducted in accordance with the following: (Those sections not noted here remain unchanged.)

6. Mobile fueling shall not take place within 15 feet of streets, alleys, public ways, buildings, property lines, combustible storage or storm drains.

EXCEPTIONS: 1. The distance to storm drains can be eliminated if an approved storm drain cover or an approved equivalent that will prevent any fuel from reaching the drain is in place prior to fueling or home being placed within 15 feet of the drain. When placement of a storm drain cover will cause the accumulation of excessive water or difficulty in safely conducting the fueling, it shall not be used and the fueling shall not take place within 15 feet of a drain.
2. The distance to storm drains can be eliminated for drains that direct intake to approved oil-water separators.

12. Fuel delivery vehicles shall be equipped with clean-up supplies in accordance with the department of ecology's *Stormwater Management Manual for Western Washington*, Volume IV - Source Control BMP (Publication No. 99-14). Such supplies shall be readily available for employment by the operator at all times.

17. Fuel dispensing is prohibited within 25 feet of any source of ignition.

25. Operators shall place a drip pan or absorbent, in good condition, under each fuel fill opening prior to and during all dispensing operations. Drip pans shall be liquid-tight. The pan or absorbent shall have a capacity of at least 3 gallons. Spills retained in the drip pan or absorbent pillow need not be reported. Operators, when fueling, shall have on their persons an absorbent pad capable of capturing diesel foam overfills. Except during fueling, the nozzle shall face upwards and an absorbent pad shall be kept under the nozzle to prevent drips. Contaminated absorbent pads shall be disposed of regularly in accordance with local, state and federal requirements.

26. All persons and parties with an interest in the property (i.e., property owner, lessor, real estate company, property manager as well as operators of the property) must give consent in writing to allow the mobile fueling to occur on the property. Managers, lessees, renters and other persons cannot solely give permission. Each person or party must indicate that they are under the risk of spills.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-3400, filed 12/17/03, effective 7/1/04.]

Chapter 51-56 WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE 2003 EDITION OF THE UNIFORM PLUMBING CODE

WAC

51-56-003 Uniform Plumbing Code.
51-56-007 Exceptions.
51-56-008 Implementation.
51-56-0100 Chapter 1—Administration.
51-56-0200 Chapter 2—Definitions.
51-56-0300 Chapter 3—General regulations.
51-56-0400 Chapter 4—Plumbing fixtures and fixture fittings.
51-56-0500 Chapter 5—Water heaters.
51-56-0600 Chapter 6—Water supply and distribution.
51-56-1100 Chapter 11—Storm drainage.
51-56-1300 Chapter 13—Health care facilities and medical gas and vacuum systems.
51-56-1400 Chapter 14—Referenced standards.
51-56-201300 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

51-56-201300 Appendix M—Storm drainage. [Statutory Authority: RCW 19.27.031, 19.27.074. 02-01-114, § 51-56-201300, filed 12/18/01, effective 7/1/02.] Repealed by 04-01-110, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.031 and 19.27.074.

WAC 51-56-003 Uniform Plumbing Code. The 2003 edition of the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials, is hereby adopted by reference with the following additions, deletions and exceptions: Provided that chapters 12 and 15 of this code are not adopted. Provided further, that those requirements of the Uniform Plumbing Code relating to venting and combustion air of fuel fired appliances as found in chapter 5 and those portions of the code addressing building sewers are not adopted.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-56-003, filed 12/17/03, effective 7/1/04; 02-01-114, § 51-56-003, filed 12/18/01, effective 7/1/02.]

WAC 51-56-007 Exceptions. The exceptions and amendments to the model codes contained in the provisions of chapter 19.27 RCW shall apply in cases of conflict with any of the provisions of these rules.

Codes referenced which are not adopted through RCW 19.27.031 or chapter 19.27A RCW shall not apply unless specifically adopted by the authority having jurisdiction.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-56-007, filed 12/17/03, effective 7/1/04; 02-01-114, § 51-56-007, filed 12/18/01, effective 7/1/02.]

WAC 51-56-008 Implementation. The Uniform Plumbing Code adopted by chapter 51-56 WAC shall become effective in all counties and cities of this state on July 1, 2004, unless local government residential amendments have been approved by the state building code council.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-56-008, filed 12/17/03, effective 7/1/04; 02-01-114, § 51-56-008, filed 12/18/01, effective 7/1/02.]

WAC 51-56-0100 Chapter 1—Administration.

101.4.1.4 Conflict Between Codes. Delete paragraph.

102.4 Appeals. All persons shall have the right to appeal a decision of the authority having jurisdiction. The jurisdiction shall have a board of appeals to hear and rule on Plumbing Code appeals. Members of the board shall be appointed by the jurisdiction. Decisions by the board shall be reported to the jurisdiction and administered by the authority having jurisdiction.

103.1.3 Certification. State rules and regulations concerning certification shall apply.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-56-0100, filed 12/17/03, effective 7/1/04; 02-01-114, § 51-56-0100, filed 12/18/01, effective 7/1/02.]

WAC 51-56-0200 Chapter 2—Definitions.

205.0 Certified Backflow Assembly Tester - A person certified by the Washington state department of health under

chapter 246-292 WAC to inspect (for correct installation and approval status) and test (for proper operation) approved backflow assemblies.

218.0 Plumbing System - Includes all potable water building supply and distribution pipes, all plumbing fixtures and traps, all drainage and vent pipe(s), and all building drains including their respective joints and connection, devices, receptors, and appurtenances within the property lines of the premises and shall include potable water piping, potable water treating or using equipment, medical gas and medical vacuum systems, and water heaters: Provided, That no certification shall be required for the installation of a plumbing system within the property lines and outside a building.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-56-0200, filed 12/17/03, effective 7/1/04; 02-01-114, § 51-56-0200, filed 12/18/01, effective 7/1/02.]

WAC 51-56-0300 Chapter 3—General regulations.

301.1.3 Standards. Standards listed or referred to in this chapter or other chapters cover materials which will conform to the requirements of this code, when used in accordance with the limitations imposed in this or other chapters thereof and their listing. Where a standard covers materials of various grades, weights, quality, or configurations, there may be only a portion of the listed standard which is applicable. Design and materials for special conditions or materials not provided for herein are allowed to be used by special permission of the authority having jurisdiction after the authority having jurisdiction has been satisfied as to their adequacy in accordance with Section 301.2.

311.4 Except as hereinafter provided in Sections 908.0, 909.0, 910.0, and Appendix L, Section L 6.0, no vent pipe shall be used as a soil or waste pipe, nor shall any soil or waste pipe be used as a vent.

313.6 No water, soil, or waste pipe shall be installed or permitted outside of a building or in an exterior wall unless, where necessary, adequate provision is made to protect such pipe from freezing. All hot and cold water pipes installed outside the conditioned space shall be insulated to a minimum R-3.

313.7 All pipe penetrating floor/ceiling assemblies and fire-resistance rated walls or partitions shall be protected in accordance with the requirements of the building code.

314.5.1 In Seismic Design Categories C, D, E and F hubless cast iron piping in sizes 5 inches and larger suspended in exposed locations over public or high traffic areas, pipe over 4 feet in length shall be provided with support on both sides of the coupling.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-56-0300, filed 12/17/03, effective 7/1/04; 02-01-114, § 51-56-0300, filed 12/18/01, effective 7/1/02.]

WAC 51-56-0400 Chapter 4—Plumbing fixtures and fixture fittings.

402.0 Water-Conserving Fixtures and Fittings.

402.1 The purpose of this section shall be to implement water conservation performance standards in accordance with RCW 19.27.170.

402.2 Application. This section shall apply to all new construction and all remodeling involving replacement of plumbing fixtures and fittings in all residential, hotel, motel, school, industrial, commercial use, or other occupancies determined by the council to use significant quantities of water. Plumbing fixtures, fittings and appurtenances shall conform to the standards specified in this section and shall be provided with an adequate supply of potable water to flush and keep the fixtures in a clean and sanitary condition without danger of backflow or cross-connection.

402.3 Water Efficiency Standards.

402.3.1 Standards for Vitreous China Plumbing Fixtures.

402.3.1.1 The following standards shall be adopted as plumbing materials, performance standards, and labeling standards for water closets and urinals. Water closets and urinals shall meet either the ANSI/ASME standards or the CSA standard.

ANSI/ASME A112.19.2M-1998	Vitreous China Plumbing Fixtures
ANSI/ASME A112.19.6-1995	Hydraulic Requirements for Water Closets and Urinals
CSA B45	CSA Standards on Plumbing Fixtures

402.3.1.2 The maximum water use allowed in gallons per flush (gpf) or liters per flush (lpf) for any of the following water closets shall be the following:

Tank-type toilets	1.6 gpf/6.0 lpf
Flushometer-valve toilets	1.6 gpf/6.0 lpf
Flushometer-tank toilets	1.6 gpf/6.0 lpf
Electromechanical hydraulic toilets	1.6 gpf/6.0 lpf

EXCEPTIONS:
1. Water closets located in day care centers, intended for use by young children may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.
2. Water closets with bed pan washers may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.
3. Blow out bowls, as defined in ANSI/ASME A112.19.2M, Section 5.1.2.3 may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.

402.3.1.3 The maximum water use allowed for any urinal shall be 1.0 gallons per flush or 3.78 liters per flush.

402.3.1.4 No urinal or water closet that operates on a continuous flow or continuous flush basis shall be permitted.

402.3.1.5 This section does not apply to fixtures installed before the effective date of this Section, that are removed and relocated to another room or area of the same building after the effective date of this Section.

402.3.2 Standards for Plumbing Fixture Fittings.

402.3.2.1 The following standards are adopted as plumbing material, performance requirements, and labeling standards

for plumbing fixture fittings. Faucets, aerators, and shower heads shall meet either the ANSI/ASME standard or the CSA standard.

ANSI/ASME A112.18.1M-1996	Plumbing Fixture Fittings
CSA B125	Plumbing Fittings

402.3.2.2 The maximum water use allowed for any shower head is 2.5 gallons per minute or 9.5 liters per minute.

EXCEPTION: Emergency use showers shall be exempt from the maximum water usage rates.

402.3.2.3 The maximum water use allowed in gallons per minute (gpm) or liters per minute (lpm) for any of the following faucets and replacement aerators is the following:

Lavatory faucets	2.5 gpm/9.5 lpm
Kitchen faucets	2.5 gpm/9.5 lpm
Replacement aerators	2.5 gpm/9.5 lpm
Public lavatory faucets other than metering	0.5 gpm/1.9 lpm

402.4 Metering Valves. Lavatory faucets located in restrooms intended for use by the general public shall be equipped with a metering valve designed to close by spring or water pressure when left unattended (self-closing).

EXCEPTIONS: 1. Where designed and installed for use by persons with a disability.
2. Where installed in day care centers, for use primarily by children under 6 years of age.

402.5 Implementation.

402.5.1 The standards for water efficiency and labeling contained within Section 402.3 shall be in effect as of July 1, 1993, as provided in RCW 19.27.170 and amended July 1, 1998.

402.5.2 No individual, public or private corporation, firm, political subdivision, government agency, or other legal entity, may, for purposes of use in the state of Washington, distribute, sell, offer for sale, import, install, or approve for installation any plumbing fixtures or fittings unless the fixtures or fittings meet the standards as provided for in this Section.

Sections 402.6 through 402.9 are not adopted.

412.2 Location of Floor Drains. Floor drains shall be installed in the following areas:

412.2.1 Toilet rooms containing two (2) or more water closets or a combination of one (1) water closet and one (1) urinal, except in a dwelling unit. The floor shall slope toward the floor drains.

412.2.2 Laundry rooms in commercial buildings and common laundry facilities in multifamily dwelling buildings.

413.0 Minimum Number of Required Fixtures. For minimum number of plumbing fixtures required, see Building Code chapter 29 and Table 2902.1.

Sections 413.1 through 413.7 and Table 4-1 are not adopted.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-56-0400, filed 12/17/03, effective 7/1/04; 02-01-114, § 51-56-0400, filed 12/18/01, effective 7/1/02.]

WAC 51-56-0500 Chapter 5—Water heaters.

501.0 General. The regulations of this chapter shall govern the construction, location, and installation of fuel burning and other water heaters heating potable water. The minimum capacity for water heaters shall be in accordance with the first hour rating listed in Table 5-1. See the Mechanical Code for combustion air and installation of all vents and their connectors. All design, construction, and workmanship shall be in conformity with accepted engineering practices, manufacturer's installation instructions, and applicable standards and shall be of such character as to secure the results sought to be obtained by this Code. No water heater shall be hereinafter installed which does not comply in all respects with the type and model of each size thereof approved by the authority having jurisdiction. A list of accepted gas equipment standards is included in Table 14-1.

TABLE 5-1[1,3]

Number of Bathrooms	**1 to 1.5**			**2 to 2.5**				**3 to 3.5**			
Number of Bedrooms	1	2	3	2	3	4	5	3	4	5	6
First Hour Rating[2], Gallons	42	54	54	54	67	67	80	67	80	80	80

Notes: [1]The first hour rating is found on the "Energy Guide" label.
[2]Nonstorage and solar water heaters shall be sized to meet the appropriate first hour rating as shown in the table.
[3]For replacement water heaters, see Section 101.4.1.1.1.

502.2 Chimney – Delete definition.

502.3 Chimney, Factory-Built – Delete definition.

502.4 Chimney, Masonry – Delete definition.

502.5 Chimney, Metal – Delete definition.

502.7 Direct Vent Appliance – Delete definition.

502.8 Flue Collar – Delete definition.

502.9 Gas Vent, Type B – Delete definition.

502.10 Gas Vent, Type L – Delete definition.

502.11 Vent – Delete definition.

502.12 Vent Connector – Delete definition.

502.13 Venting System – Delete definition.

504.1 Inspection of Chimneys or Vents. Delete paragraph.

505.1 Prohibited Locations. Water heaters which depend on the combustion of fuel for heat shall not be installed in a room used or designed to be used for sleeping purposes, bathroom, clothes closets or in a closet or other confined space opening into a bath or bedroom.

EXCEPTIONS: 1. Direct vent water heaters.
2. Water heaters installed in a closet that has a weather-stripped solid door with an approved door closing device, and designed exclusively for the water heater and where all air for combustion and ventilation is supplied from the outdoors.

3. Water heaters of the automatic storage type installed as a replacement in a bathroom, when specifically approved, properly vented and supplied with adequate combustion air.

Where not prohibited by other regulations, water heaters may be located under a stairway or landing.

506.2 All storage-type water heaters deriving heat from fuels or types of energy other than gas, shall be provided with, in addition to the primary temperature controls, an over-temperature safety protection device constructed, listed, and installed in accordance with nationally recognized applicable standards for such devices and a combination temperature and pressure relief valve.

507.0 Combustion Air. For issues relating to combustion air, see the Mechanical Code.

Sections 507.1 through 507.10 are not adopted.

Sections 508.6 through 508.9 are not adopted.

508.12 Delete entire section.

508.18 Venting of Flue Gases - Delete entire section.

Sections 508.20 through 508.24.5 are not adopted.

509.0 Access and Working Space.

509.1 Every water heater installation shall be accessible for inspection, repair, or replacement. The appliance space shall be provided with an opening or doorway of sufficient size to remove the water heater. In no case shall such opening or doorway be less than 24 inches in width. Such access shall be continuous and shall be one or any combination of the following means:

(1) By an opening or door, and passageway not less than 2 feet in width and large enough to permit removal of the water heater, but not less than 30 inches in height. Stairways and ramps leading to or part of such passageways shall comply with the building code.

(2) Every attic, roof, mezzanine, or platform more than 8 feet above the ground or floor level shall be made accessible by a stairway or ladder permanently fastened to the building. Such a ladder or stairway shall not be more than 18 feet in length between landings and not less than 14 inches in width. Such a ladder shall have rungs spaced not more than 14 inches center to center and not less than 6 inches from the face of the wall. Each stile is to extend 30 inches above the surface to be reached, or as high as possible, if height is limited. Permanent ladders for water heater access need not be provided at parapets or walls less than 30 inches in height.

EXCEPTION: A portable ladder may be used for access for water heaters in attics on the single story portion of a Group R or U Occupancy.

(3) By a trap door or opening and passageway not less than 30 inches by 30 inches, but in no case smaller than the water heater. The passageway shall be continuous from the trap door or opening to the water heater. The trap door or opening shall be located not more than 20 feet from the water heater.

(4) Every passageway to an attic water heater shall have an unobstructed solid continuous flooring not less than 24 inches wide from the trap door or opening to the water heater. If the trap door or opening is more than 8 feet above the floor, a stairway or ladder permanently fastened to the building shall be provided. Such stairway or ladder shall lead directly to the edge of the trap door or opening and shall comply with the provisions of this section.

EXCEPTION: A portable ladder may be used for access for water heaters in attics on the single-story portion of a Group R or U Occupancy.

(5) By an unobstructed catwalk not less than 24 inches wide. Access to the catwalk shall be by ladder or stairs complying with the provisions of this section.

509.2 Attic and underfloor water heater locations shall be provided with an electric outlet and lighting fixture at or near the water heater. The lighting fixture shall be controlled by a switch located adjacent to the opening or trap door.

509.3 An unobstructed solidly floored working surface not less than 30 inches in depth and width shall be provided immediately in front of the firebox access opening. A door opening into such space shall not be considered an obstruction.

Sections 509.3.1 through 509.3.4 are not adopted.

Sections 510.1 through 511.2.25 are not adopted.

512.0 Direct Vent Equipment. Delete entire section.

Chapter 5, Part II is not adopted.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-56-0500, filed 12/17/03, effective 7/1/04; 02-01-114, § 51-56-0500, filed 12/18/01, effective 7/1/02.]

WAC 51-56-0600 Chapter 6—Water supply and distribution.

603.0 Cross-Connection Control. Cross-connection control shall be provided in accordance with the provisions of this chapter. Devices or assemblies for protection of the public water system must be models approved by the department of health under WAC 246-290-490. The authority having jurisdiction shall coordinate with the local water purveyor where applicable in all matters concerning cross-connection control within the property lines of the premises.

No person shall install any water operated equipment or mechanism, or use any water treating chemical or substance, if it is found that such equipment, mechanism, chemical or substance may cause pollution or contamination of the domestic water supply. Such equipment or mechanism may be permitted only when equipped with an approved backflow prevention device or assembly.

603.3.3 For devices and assemblies other than those regulated by the Washington department of health in conjunction with the local water purveyor for the protection of public water systems, the authority having jurisdiction shall ensure that the premise owner or responsible person shall have the backflow prevention assembly tested by a Washington state department of health certified backflow assembly tester:

(1) At the time of installation, repair or relocation; and

(2) At least on an annual schedule thereafter, unless more frequent testing is required by the authority having jurisdiction.

603.4.6.1 Potable water supplies to systems having no pumps or connections for pumping equipment, and no chemical injection or provisions for chemical injection, shall be protected from backflow by one of the following devices:

(1) Atmospheric vacuum breaker.

(2) Pressure vacuum breaker.

(3) Reduced pressure backflow preventer.

(4) A double check valve may be allowed when approved by the water purveyor and the authority having jurisdiction.

(5) A spill proof pressure vacuum breaker may be allowed when approved by the water purveyor and the authority having jurisdiction.

603.4.11 Potable Water Make Up Connections to Steam or Hot Water Boilers shall be protected by an air gap or a reduced pressure principle backflow preventer.

603.4.13 Potable Water Supply to Carbonators shall be protected by a listed reduced pressure principle backflow preventer as approved by the authority having jurisdiction for the specific use.

603.4.18.1 Except as provided under Sections 603.4.18.2 and 603.4.18.3, potable water supplies to fire protection systems that are normally under pressure, including but not limited to standpipes and automatic sprinkler systems, except in one or two family residential flow-through or combination sprinkler systems piped in materials approved for potable water distribution systems, shall be protected from back-pressure and back-siphonage by one of the following testable devices:

1. Double check valve assembly.
2. Double check detector assembly.
3. Reduced pressure backflow preventer.
4. Reduced pressure detector assembly.

Potable water supplies to fire protection systems that are not normally under pressure shall be protected from backflow and shall meet the requirements of the appropriate standard(s) referenced in Table 14-1.

604.1 Water distribution pipe, building supply water pipe and fittings shall be of brass, copper, cast iron, CPVC, galvanized malleable iron, galvanized wrought iron, galvanized steel, PEX or other approved materials. Except as provided in Section 604.14, asbestos-cement, PE, PVC, PEX-AL-PEX or PE-AL-PE water pipe manufactured to recognized standards may be used for cold water building supply distribution systems outside a building. PEX-AL-PEX water pipe, tubing, and fittings, manufactured to recognized standards may be used for hot and cold water distribution systems within a building. Other products not listed in this section are acceptable for their intended use, provided that such materials or distribution systems are listed and approved in accordance with nationally recognized standards. All materials used in the water supply system, except valves and similar devices shall be of like material, except where otherwise approved by the authority having jurisdiction.

604.14 Plastic water service piping may terminate within a building, provided the connection to the potable water distribution system shall be made as near as is practical to the point of entry and shall be accessible. Barbed insert fittings with hose clamps are prohibited as a transition fitting within the building.

608.5 Relief valves located inside a building shall be provided with a drain, not smaller than the relief valve outlet, of galvanized steel, hard drawn copper piping and fittings, CPVC, or listed relief valve drain tube with fittings which will not reduce the internal bore of the pipe or tubing (straight lengths as opposed to coils) and shall extend from the valve to the outside of the building with the end of the pipe not more than two (2) feet (610 mm) nor less than six (6) inches (152 mm) above the ground or the flood level of the area receiving the discharge and pointing downward. Such drains may terminate at other approved locations. No part of such drain pipe shall be trapped or subject to freezing. The terminal end of the drain pipe shall not be threaded.

EXCEPTION: Replacement water heating equipment shall only be required to provide a drain pointing downward from the relief valve to extend between two feet (610 mm) and six inches (152 mm) from the floor. No additional floor drain need be provided.

609.10.2 Mechanical Devices. When listed mechanical devices are used, the manufacturer's specifications as to location and method of installation shall be followed.

610.4 Systems within the range of Table 6-5 may be sized from that table or by the method set forth in Section 610.5.

Listed parallel water distribution systems shall be installed in accordance with their listing.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-56-0600, filed 12/17/03, effective 7/1/04; 02-01-114, § 51-56-0600, filed 12/18/01, effective 7/1/02.]

WAC 51-56-1100 Chapter 11—Storm drainage.

1101.3 Material Uses. Rainwater piping placed within the interior of a building or run within a vent or shaft shall be of cast iron, galvanized steel, wrought iron, brass, copper, lead, Schedule 40 ABS DWV, Schedule 40 PVC DWV, or other approved materials, and changes in direction shall conform to the requirements of Section 706.0.

1101.12.0 Cleanouts.

1101.12.1 Cleanouts for building storm drains shall comply with the requirements of this section. Rain leaders and conductors connected to a building storm sewer shall have a cleanout installed at the base of the outside leader or outside conductor before it connects to the horizontal drain. Cleanouts shall be placed inside the building near the connection between the building drain and the building sewer or installed outside the building at the lower end of the building drain and extended to grade.

1101.12.2 Each cleanout shall be installed so that it opens to allow cleaning in the direction of flow of the soil or waste or at right angles thereto, and except in the case of wye branch and end-of-line cleanouts, shall be installed vertically above the flow line of the pipe.

1101.12.3 Cleanouts installed under concrete or asphalt paving shall be made accessible by yard boxes, or extending flush with paving with approved materials and be adequately protected.

1101.12.4 Approved manholes may be installed in lieu of cleanouts when first approved by the authority having jurisdiction. The maximum distance between manholes shall not exceed three hundred (300) feet (91.4 m).

The inlet and outlet connections shall be made by the use of a flexible compression joint no closer than twelve (12) inches (305 mm) to, and not farther than three (3) feet (914 mm) from the manhole. No flexible compression joints shall be embedded in the manhole base.

1108.0 Controlled-Flow Roof Drainage. This section is not adopted.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-56-1100, filed 12/17/03, effective 7/1/04.]

WAC 51-56-1300 Chapter 13—Health care facilities and medical gas and vacuum systems.

Part II Medical Gas and Vacuum Systems

1309.0 Scope.

1309.1 The provisions herein shall apply to the design, installation, testing, and verification of medical gas, medical vacuum systems, and related permanent equipment in hospitals, clinics, and other heath care facilities.

1309.2 The purpose of this chapter is to provide minimum requirements for the design, installation, testing and verification of medical gas, medical vacuum systems, and related permanent equipment, from the central supply system to the station outlets or inlets.

1313.3 Minimum Station Outlets/Inlets. Station outlets and inlets for medical gas and medical vacuum systems shall be provided as listed in WAC 246-320-525.

1331.0 System Verification.

1331.1 Prior to any medical gas system being placed in service, each and every system shall be verified as described in section 1331.2.

1331.1.1 Verification tests shall be performed only after all tests required in section 1329.0, Installer Performed Tests, have been completed.

Testing shall be conducted by a party technically competent and experienced in the field of medical gas and vacuum pipeline testing and meeting the requirements of ANSI/ASSE Standard 6030, Medical Gas Verifiers Professional Qualifications Standard.

Testing shall be performed by a party other than the installing contractor or material vendor.

When systems have been installed by in-house personnel, testing shall be permitted by personnel of that organization who meet the requirements of this section.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-56-1300, filed 12/17/03, effective 7/1/04; 02-01-114, § 51-56-1300, filed 12/18/01, effective 7/1/02.]

WAC 51-56-1400 Chapter 14—Referenced standards.

TABLE 14-1
Standards for Materials, Equipment, Joints and Connections

Where more than one standard has been listed for the same material or method, the relevant portions of all such standards shall apply.

Add the following standard to those listed in Table 14-1:

Standard Number	Standard Title	Application	Indicate if Not Approved in the UPC
WAC 246-290-490	Washington State Department of Health Cross-connection Control Requirements	Backflow Protection	

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-56-1400, filed 12/17/03, effective 7/1/04; 02-01-114, § 51-56-1400, filed 12/18/01, effective 7/1/02.]

WAC 51-56-201300 Repealed. See Disposition Table at beginning of this chapter.

Chapter 51-57 WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF APPENDIX A, B AND APPENDIX I OF THE 2003 EDITION OF THE UNIFORM PLUMBING CODE

WAC

51-57-003 Uniform Plumbing Code Standards.
51-57-008 Implementation.
51-57-202000 Installation standard 20-200—CPVC solvent cemented hot and cold water distribution systems.

WAC 51-57-003 Uniform Plumbing Code Standards. The 2003 edition of the Uniform Plumbing Code Standards (Appendixes A, B and I), published by the International Association of Plumbing and Mechanical Officials are hereby adopted by reference.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-57-003, filed 12/17/03, effective 7/1/04; 02-01-114, § 51-57-003, filed 12/18/01, effective 7/1/02.]

WAC 51-57-008 Implementation. The Uniform Plumbing Code Standards adopted by chapter 19.27 RCW shall become effective in all counties and cities of this state on July 1, 2004, unless local government residential amendments have been approved by the state building code council.

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-57-008, filed 12/17/03, effective 7/1/04; 02-01-114, § 51-57-008, filed 12/18/01, effective 7/1/02.]

WAC 51-57-202000 Installation standard 20-200—CPVC solvent cemented hot and cold water distribution systems.

301.1.1 Materials. Materials shall comply with the following:

Materials	ASTM Std
Raw Material - CPVC 23447-B	D1784-95
IPS pipe	
Sch 40 (1/2 in., 3/4 in., and 1 in.)	F 441-89e1
Sch 80 (1/2 in. - 2 in.)	F 441-94
Tubing	
SDR 11 (1/2 in. - 2 in.)	D2846-93
Fittings	
Sch 40 (1/2 in., 3/4 in., and 1 in.)	F 438-93
Sch 80 (1/2 in. - 2 in.)	F 439-93a
Tube Fittings (1/2 in. - 2 in.)	D2846-93

Primer. Listed primers shall be used that are compatible with the type of listed CPVC cement and pipe used. The primer shall be a true solvent for CPVC, containing no slow-drying ingredient. Cleaners shall not be allowed to be used as a substitute or equivalent for a listed primer.

EXCEPTION: Listed solvent cements that do not require the use of primer shall be permitted for use with CPVC pipe and fittings, manufactured in accordance with ASTM D2845 (1/2 in. - 2 in.).

[Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-110, § 51-57-202000, filed 12/17/03, effective 7/1/04.]

Title 82 WAC

FINANCIAL MANAGEMENT, OFFICE OF

(Formerly: Office of Program Planning and Fiscal Management)

Chapters

82-04 Wage overpayment adjudicative hearings.
82-50 Pay dates for state employees.

Chapter 82-04 WAC

WAGE OVERPAYMENT ADJUDICATIVE HEARINGS

WAC

82-04-010 Appellant notice to request adjudicative hearing.
82-04-020 Agency transmissions to the office of administrative hearings.
82-04-030 Adjudicative hearing process.
82-04-040 Adjudicative hearing requirements.
82-04-050 Adjudicative hearing decision.
82-04-060 Good cause requirements.
82-04-070 Exclusions to Administrative Procedure Act.

WAC 82-04-010 Appellant notice to request adjudicative hearing. (1) Once the appellant has notified the agency that he or she wishes to appeal the agency's review decision, the agency shall transmit the appellant's application for an adjudicative proceeding (request for hearing) to the office of administrative hearings (OAH) within ten business days after receiving it from the appellant.

(2) In any wage overpayment matter that is appealed, the agency shall provide OAH with the following information:

(a) The name of the agency contact in the matter and any contact information;

(b) The name of the appellant and any contact information, including address and telephone number;

(c) The name and address of the agency contact for billing purposes; and

(d) The name and address of the agency contact where the file should be sent after OAH closes the adjudicative proceeding.

(3) The agency shall transmit all requests for hearing to the following address: Office of Administrative Hearings, 919 Lakeridge Way SW, P.O. Box 42488, Olympia, WA 98504-2488; (360) 664-8717; fax (360) 664-8721.

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-010, filed 10/7/03, effective 11/7/03.]

WAC 82-04-020 Agency transmissions to the office of administrative hearings. Within ten business days of receipt of the appellant's request for hearing, the agency shall also transmit to OAH the relevant case file, including documents which the agency intends to use as exhibits in the hearing. The case file and documents may be transmitted to OAH together with the request for hearing. If the case file and documents are exceptionally voluminous, the agency should contact OAH for instructions before transmitting them.

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-020, filed 10/7/03, effective 11/7/03.]

WAC 82-04-030 Adjudicative hearing process. (1) It shall be the responsibility of OAH to issue the notice of hearing to the appellant and the agency.

(2) Either party may request a prehearing conference.

(3) The hearing shall be held telephonically unless the rights of the parties will be prejudiced thereby or at the discretion of the administrative law judge (ALJ).

(4) The hearing shall be recorded electronically and no transcript is required, unless specified otherwise in law or rule.

(5) In any adjudicative proceedings for wage overpayments, the ALJ shall apply the model rules of procedure, set forth in chapter 10-08 WAC, which shall govern the proceedings regardless of WAC 10-08-001(4) or other agency procedural rules to the contrary.

(6) All costs of the hearing shall be borne by the agency and OAH shall bill the agency for the hearing costs incurred.

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-030, filed 10/7/03, effective 11/7/03.]

WAC 82-04-040 Adjudicative hearing requirements. The ALJ shall hear the evidence presented by both the appellant and the agency regarding the wage overpayment. The ALJ shall decide based upon that evidence whether a wage overpayment has occurred and, if so, what amount appellant owes the agency. Recoupment of an overpayment shall be conducted pursuant to chapter 77, Laws of 2003 (Substitute

House Bill 1738) and the ALJ shall not have authority to decide repayment issues.

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-040, filed 10/7/03, effective 11/7/03.]

WAC 82-04-050 Adjudicative hearing decision. The decision of the ALJ in any wage overpayment adjudicative proceeding shall be considered a final order.

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-050, filed 10/7/03, effective 11/7/03.]

WAC 82-04-060 Good cause requirements. (1) If a person with a right to an adjudicative proceeding under chapter 77, Laws of 2003, files a request for hearing after the period for doing so has passed, the person must show good cause why the request for hearing should be granted.

(2)(a) If the ALJ finds good cause for filing a late hearing request, the ALJ shall conduct a hearing on the merits.

(b) If the ALJ does not find good cause for filing a late hearing request, the agency's overpayment decision is deemed final and the agency shall proceed to collect the wage overpayment as provided in chapter 77, Laws of 2003.

(3) As used in this section, "good cause" means a substantial reason or legal justification for failing to file a request for an adjudicative proceeding within the time period mandated by statute.

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-060, filed 10/7/03, effective 11/7/03.]

WAC 82-04-070 Exclusions to Administrative Procedure Act. For purposes of adjudicative proceedings of state employee wage overpayments, the exclusions to the administrative procedure act found in RCW 34.05.030 do not apply.

[Statutory Authority: 2003 c 77. 03-21-024, § 82-04-070, filed 10/7/03, effective 11/7/03.]

Chapter 82-50 WAC
PAY DATES FOR STATE EMPLOYEES

WAC
82-50-021 Official lagged, semimonthly pay dates established.

WAC 82-50-021 Official lagged, semimonthly pay dates established. Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1). The following are the official lagged, semimonthly pay dates for calendar years 2003 and 2004:

CALENDAR YEAR 2003	CALENDAR YEAR 2004
Friday, January 10, 2003	Friday, January 9, 2004
Friday, January 24, 2003	Monday, January 26, 2004
Monday, February 10, 2003	Tuesday, February 10, 2004
Tuesday, February 25, 2003	Wednesday, February 25, 2004
Monday, March 10, 2003	Wednesday, March 10, 2004
Tuesday, March 25, 2003	Thursday, March 25, 2004
Thursday, April 10, 2003	Friday, April 9, 2004
Friday, April 25, 2003	Monday, April 26, 2004
Friday, May 9, 2003	Monday, May 10, 2004
Friday, May 23, 2003	Tuesday, May 25, 2004
Tuesday, June 10, 2003	Thursday, June 10, 2004
Wednesday, June 25, 2003	Friday, June 25, 2004
Thursday, July 10, 2003	Friday, July 9, 2004
Friday, July 25, 2003	Monday, July 26, 2004
Monday, August 11, 2003	Tuesday, August 10, 2004
Monday, August 25, 2003	Wednesday, August 25, 2004
Wednesday, September 10, 2003	Friday, September 10, 2004
Thursday, September 25, 2003	Friday, September 24, 2004
Friday, October 10, 2003	Friday, October 8, 2004
Friday, October 24, 2003	Monday, October 25, 2004
Monday, November 10, 2003	Wednesday, November 10, 2004
Tuesday, November 25, 2003	Wednesday, November 24, 2004
Wednesday, December 10, 2003	Friday, December 10, 2004
Wednesday, December 24, 2003	Thursday, December 23, 2004

[Statutory Authority: RCW 42.16.010(1) and 42.16.017. 03-11-073, § 82-50-021, filed 5/20/03, effective 6/20/03; 02-13-087, § 82-50-021, filed 6/18/02, effective 7/19/02; 01-12-007, § 82-50-021, filed 5/24/01, effective 6/24/01; 00-09-088, § 82-50-021, filed 4/18/00, effective 5/19/00; 99-12-081, § 82-50-021, filed 5/28/99, effective 6/28/99; 98-14-079, § 82-50-021, filed 6/30/98, effective 6/30/98; 97-13-064, § 82-50-021, filed 6/17/97, effective 7/18/97; 96-15-039, § 82-50-021, filed 7/11/96, effective 8/11/96; 95-15-031, § 82-50-021, filed 7/11/95, effective 8/11/95; 94-13-097, § 82-50-021, filed 6/15/94, effective 7/16/94; 93-24-041, § 82-50-021, filed 11/23/93, effective 12/24/93; 92-20-038, § 82-50-021, filed 9/29/92, effective 10/30/92; 91-20-061 (Order 91-73), § 82-50-021, filed 9/24/91, effective 10/25/91; 90-17-017 (Order 90-72), § 82-50-021, filed 8/7/90, effective 9/7/90; 89-17-090 (Order 89-70), § 82-50-021, filed 8/22/89, effective 9/22/89; 89-03-063 (Order 89-67), § 82-50-021, filed 1/18/89; 88-16-027 (Order 88-66), § 82-50-021, filed 7/27/88; 87-16-060 (Order 87-65), § 82-50-021, filed 7/30/87; 86-17-001 (Order 86-63), § 82-50-021, filed 8/8/86; 85-16-014 (Order 85-62), § 82-50-021, filed 7/26/85; 84-14-046 (Order 84-61), § 82-50-021, filed 6/29/84; 83-17-118 (Order 83-59), § 82-50-021, filed 8/24/83.]

Title 98 WAC
LICENSING, DEPARTMENT OF (CEMETERY BOARD)

Chapters
98-70 Fees.

Chapter 98-70 WAC
FEES

WAC
98-70-010 Fees.

WAC 98-70-010 Fees. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Certificate of authority	
Application	$300.00
Renewal	3.20
Charge per each interment, entombment and inurnment during preceding calendar year	
Crematory license/endorsement	
Application	140.00
Renewal	

Title of Fee	Fee
$3.20 per cremation performed during the preceding calendar year	
Prearrangement sales license	
Application	140.00
Renewal	70.00
Exemption from prearrangement sales license	
Application	70.00
Renewal	35.00
Cremated remains disposition permit or endorsement	
Application	70.00
Renewal	35.00

[Statutory Authority: RCW 68.05.205, 68.05.225, and 43.24.086. 03-11-020, § 98-70-010, filed 5/12/03, effective 6/30/03; 99-16-079, § 98-70-010, filed 8/3/99, effective 9/3/99; 98-19-053, § 98-70-010, filed 9/15/98, effective 10/16/98. Statutory Authority: RCW 68.05.105. 97-23-010, § 98-70-010, filed 11/7/97, effective 12/8/97. Statutory Authority: RCW 68.05.100. 94-01-117, § 98-70-010, filed 12/17/93, effective 1/17/94; 93-07-041, § 98-70-010, filed 3/12/93, effective 4/12/93. Statutory Authority: RCW 68.05.215. 89-06-074 (Order PM 816), § 98-70-010, filed 3/1/89. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-70-010, filed 9/6/85. Statutory Authority: RCW 68.05.100 and 68.05.230. 83-24-010 (Order 107), § 98-70-010, filed 11/29/83. Statutory Authority: RCW 68.05.100, 68.05.230 and 68.46.180. 81-24-026 (Order 105), § 98-70-010, filed 11/24/81.]

Title 118 WAC

MILITARY DEPARTMENT (EMERGENCY MANAGEMENT)

Chapters

118-65 **Enhanced 9-1-1 funding.**
118-66 **Enhanced 9-1-1 funding.**
118-67 **Wireless enhanced 9-1-1 calls from radio communications service companies—Technical and operational standards.**

Chapter 118-65 WAC

ENHANCED 9-1-1 FUNDING

WAC

118-65-010 through 118-65-090 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

118-65-010 Authority. [98-01-064, recodified as § 118-65-010, filed 12/11/97, effective 1/1/98. Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-010, filed 5/11/93, effective 6/11/93.] Repealed by 03-10-014, filed 4/25/03, effective 7/1/03. Statutory Authority: RCW 38.52.540.

118-65-020 Purpose. [Statutory Authority: RCW 38.52.540. 02-12-053, § 118-65-020, filed 5/29/02, effective 6/29/02. 98-01-064, recodified as § 118-65-020, filed 12/11/97, effective 1/1/98. Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-020, filed 5/11/93, effective 6/11/93.] Repealed by 03-10-014, filed 4/25/03, effective 7/1/03. Statutory Authority: RCW 38.52.540.

118-65-030 Definitions. [Statutory Authority: RCW 38.52.540. 02-12-053, § 118-65-030, filed 5/29/02, effective 6/29/02. 98-01-064, recodified as § 118-65-030, filed 12/11/97, effective 1/1/98. Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-030, filed 5/11/93, effective 6/11/93.] Repealed by 03-10-014, filed 4/25/03, effective 7/1/03. Statutory Authority: RCW 38.52.540.

118-65-040 Eligible jurisdictions. [Statutory Authority: RCW 38.52.540. 02-12-053, § 118-65-040, filed 5/29/02, effective 6/29/02. 98-01-064, recodified as § 118-65-040, filed 12/11/97, effective 1/1/98. Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-040, filed 5/11/93, effective 6/11/93.] Repealed by 03-10-014, filed 4/25/03, effective 7/1/03. Statutory Authority: RCW 38.52.540.

118-65-050 Fundable items. [Statutory Authority: RCW 38.52.540. 02-12-053, § 118-65-050, filed 5/29/02, effective 6/29/02. 98-01-064, recodified as § 118-65-050, filed 12/11/97, effective 1/1/98. Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-050, filed 5/11/93, effective 6/11/93.] Repealed by 03-10-014, filed 4/25/03, effective 7/1/03. Statutory Authority: RCW 38.52.540.

118-65-060 Local plan requirements. [Statutory Authority: RCW 38.52.540. 02-12-053, § 118-65-060, filed 5/29/02, effective 6/29/02. 98-01-064, recodified as § 118-65-060, filed 12/11/97, effective 1/1/98. Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-060, filed 5/11/93, effective 6/11/93.] Repealed by 03-10-014, filed 4/25/03, effective 7/1/03. Statutory Authority: RCW 38.52.540.

118-65-070 Funding priorities. [Statutory Authority: RCW 38.52.540. 02-12-053, § 118-65-070, filed 5/29/02, effective 6/29/02. 98-01-064, recodified as § 118-65-070, filed 12/11/97, effective 1/1/98. Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-070, filed 5/11/93, effective 6/11/93.] Repealed by 03-10-014, filed 4/25/03, effective 7/1/03. Statutory Authority: RCW 38.52.540.

118-65-081 Application procedures. [Statutory Authority: RCW 38.52.540. 02-12-053, § 118-65-081, filed 5/29/02, effective 6/29/02. 98-01-064, recodified as § 118-65-081, filed 12/11/97, effective 1/1/98. Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-081, filed 5/11/93, effective 6/11/93.] Repealed by 03-10-014, filed 4/25/03, effective 7/1/03. Statutory Authority: RCW 38.52.540.

118-65-090 Other rules. [Statutory Authority: RCW 38.52.540. 02-12-053, § 118-65-090, filed 5/29/02, effective 6/29/02. 98-01-064, recodified as § 118-65-090, filed 12/11/97, effective 1/1/98. Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-090, filed 5/11/93, effective 6/11/93.] Repealed by 03-10-014, filed 4/25/03, effective 7/1/03. Statutory Authority: RCW 38.52.540.

WAC 118-65-010 through 118-65-090 Repealed. See Disposition Table at beginning of this chapter.

Chapter 118-66 WAC

ENHANCED 9-1-1 FUNDING

WAC

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WAC 118-66-010 Authority. This chapter is promulgated pursuant to the authority granted in RCW 38.52.540 and 38.52.545.

[Statutory Authority: RCW 38.52.540. 03-10-014, § 118-66-010, filed 4/25/03, effective 7/1/03.]

WAC 118-66-020 Purpose and priorities. (1) RCW 38.52.540 authorizes the establishment of an enhanced 9-1-1 account in the state treasury and specifies that the funds shall be used only

(a) To support the statewide coordination and management of the enhanced 9-1-1 system,

(b) For the implementation of wireless enhanced 9-1-1 statewide, and

(c) To help supplement, within available funds, the operational costs of the system, including:

(i) Adequate funding of counties to enable implementation of wireless enhanced 9-1-1 service, and

(ii) Reimbursement of radio communications service companies for costs incurred in providing wireless enhanced 9-1-1 service pursuant to negotiated contracts between counties or their agents and the radio communications service companies.

(2) RCW 38.52.545 provides that the rules defining the purposes for which available enhanced 9-1-1 funds may be expended shall consider the base needs of individual counties for specific assistance, and establishes the following expenditure priorities for such funds:

(a) To assure that 9-1-1 dialing is operational statewide;

(b) To assist counties as necessary to assure they can achieve a basic service level for 9-1-1 operations; and

(c) To assist counties as practicable to acquire items of a capital nature appropriate to increasing 9-1-1 effectiveness.

(3) The state enhanced 9-1-1 coordinator, with the advice and assistance of the enhanced 9-1-1 advisory committee, is authorized to enter into statewide agreements to improve the efficiency of enhanced 9-1-1 services for all counties and to specify by rule the operational purposes for which funds, if available, may be expended from the enhanced 9-1-1 account.

(4) The purpose of these rules is to define the criteria and priority for enhanced 9-1-1 fundable items and requirements for eligible entities to receive enhanced 9-1-1 assistance from the state enhanced 9-1-1 account.

[Statutory Authority: RCW 38.52.540. 03-10-014, § 118-66-020, filed 4/25/03, effective 7/1/03.]

WAC 118-66-030 Definitions. (1) **"9-1-1 management information system"** shall mean equipment that collects, stores and collates 9-1-1 call data into reports and statistics.

(2) **"9-1-1 voice network"** shall mean switching systems and circuits which provide the connection between the caller's switching office and the public safety answering point (PSAP).

(3) **"Address"** shall mean the identification of a unique physical location by street name, number, and postal community, latitude, longitude (and, when available, altitude). When applicable, the address may contain the identification of separately-occupied subunits, such as apartment or suite numbers, and where appropriate, other information such as building name or floor number which defines a unique physical location.

(4) **"Advisory committee"** shall mean the enhanced 9-1-1 advisory committee as established by RCW 38.52.530.

(5) **"Alternate routing"** shall mean a method of routing 9-1-1 calls to a designated alternate PSAP location when all 9-1-1 lines are busy at the primary PSAP location.

(6) **"ANI/ALI controllers"** shall mean the stand-alone components that provide control functions for retrieving and interpreting information in the ANI and ALI databases.

(7) **"ANI/ALI display equipment"** shall mean the equipment at the PSAP call answering position necessary for the display of automatic number identification and automatic location identification.

(8) **"Automatic location identification (ALI)"** shall mean a feature of the enhanced 9-1-1 system by which the name and address associated with the calling party's telephone number (identified by ANI feature) is forwarded to the PSAP for display.

(9) **"Automatic location identification (ALI) data base"** shall mean the set of ALI records residing on a computer system at an E9-1-1 Service Provider

(10) **"Automatic location identification/data management system (ALI/DMS)"** shall mean a system of manual procedures and computer programs used to create, store, and update the data required for automatic location identification in support of enhanced 9-1-1.

(11) **"Automatic number identification (ANI)"** shall mean a feature of the enhanced 9-1-1 system that allows for the automatic display of the telephone number used to place a 9-1-1 call.

(12) **"B.01/P.01 grade of service"** shall mean a level of service where the probability that one call out of one hundred (one percent) will be blocked during the average busy hour.

(13) **"Call detail recorder"** shall mean equipment used to store, record and print ANI/ALI information for 9-1-1 calls.

(14) **"Cell sector"** shall mean an area, geographically defined according to an RCSC's radio frequency coverage data, consisting of a certain portion or all of the total coverage area of a cell site.

(15) **"Cell site"** shall mean an RCSC's radio frequency base station that receives calls from wireless end users.

(16) **"Computer aided dispatch (CAD)"** shall mean equipment capable of receiving and disseminating detailed information related to emergency services call taking and dispatching.

(17) **"Department"** shall mean the military department.

(18) **"E9-1-1 mapping administration"** shall mean personnel, hardware, and software necessary to create and maintain map data necessary to interpret Phase II E9-1-1 latitude and longitude (and, when available, altitude), and to display the data on a PSAP call answering position.

(19) **"E9-1-1 service provider"** shall mean a LEC providing the selective routing services for county wireline E9-1-1 service.

(20) **"Electronic mail"** shall mean a means of delivering text, data, graphics and other electronic media via a private computer network or the internet.

(21) **"Emergency service number (ESN)"** shall mean a number representing an emergency service zone, used to

facilitate the selective routing and selective transfer of 9-1-1 calls to the appropriate PSAP.

(22) **"Emergency service zone (ESZ)"** shall mean a geographical area with a combination of designated police, fire, and emergency medical service providers.

(23) **"Instant call check"** shall mean equipment which records 9-1-1 call conversations for immediate playback on demand.

(24) **"Language line service"** shall mean language interpreter services for 9-1-1 calls.

(25) **"Local exchange company (LEC)"** shall mean every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court, and every city or town making available facilities to provide telephone exchange service or exchange access. Such term does not include the provision of radio communications service.

(26) **"Location"** has the same definition as "address" in this section.

(27) **"Location determination technology (LDT)"** shall mean the technology used exclusively to determine position or geographic location using latitude and longitude (and, when available, altitude) of a wireless E9-1-1 caller when the mobile switching center (MSC) starts a call or while the MSC is engaged in a call.

(28) **"Logging recorder"** shall mean a device that is capable of time stamping, recording and replaying 9-1-1 call conversations.

(29) **"Mapping display"** shall mean equipment capable of displaying 9-1-1 call locations on a map.

(30) **"Master street address guide (MSAG)"** shall mean a database of street names and address ranges within their associated postal communities defining emergency service zones for 9-1-1 purposes.

(31) **"Mobile directory number (MDN)"** shall mean the telephone number of the mobile handset used to originate the 9-1-1 call.

(32) **"Mobile positioning center (MPC)"** shall mean a point of interface to a wireless network for the emergency service network. The gateway mobile location center (GMLC) serves as the point of interface to the global standard for mobile communications (GSM) wireless network. The MPC and GMLC serve as the entity that retrieves, forwards, stores and controls position data within the location network. The MPC/GMLC entity receives position information from the wireless network, forwards it to the emergency services network upon request and coordinates requests for position update.

(33) **"Mobile switching center (MSC)"** shall mean the wireless equivalent of a switching office that provides switching functions for wireless calls.

(34) **"MSC Phase I software capabilities"** shall mean software at an MSC that is necessary for the provision of Phase I E9-1-1 service and is used exclusively [for] this purpose.

(35) **"MSC Phase II software capabilities"** shall mean software at the MSC that is necessary for the provision of Phase II E9-1-1 service, and is exclusively used for this purpose.

(36) **"Multicounty region"** shall mean two or more counties served by a regional PSAP.

(37) **"Night service"** shall mean a feature that forwards all 9-1-1 calls routed to a designated PSAP to an alternate directory number preassigned for that PSAP. The alternate directory number may be associated with another PSAP or other alternate destination.

(38) **"Phase I 9-1-1 voice network"** shall mean the dedicated 9-1-1 trunks between an MSC and a selective router, and between a selective router and PSAPs.

(39) **"Phase I address"** shall mean the identification of a cell site and cell sector from which a 9-1-1 call originates, and includes identification of a cell site address, cell sector orientation, and/or a text description of the area.

(40) **"Phase I ALI data base"** shall mean a computer data base used to update the MDN information of wireless end user and cell site and cell sector information.

(41) **"Phase I ALI data circuit"** shall mean a dedicated 9-1-1 data circuit between an MSC and a service control point (SCP), and between an SCP and an ALI data base.

(42) **"Phase I automatic location identification (ALI)"** shall mean the MDN information of wireless end users and the cell site and cell sector information.

(43) **"Phase I E9-1-1 service"** shall mean service that facilitates the selective routing of wireless 9-1-1 calls and the display of Phase I ALI at the PSAPs.

(44) **"Phase I implementation plan"** shall mean a plan of an RCSC or county for implementation of Phase I E9-1-1 service in a county or counties in Washington state, including, but not limited to: Phase I E9-1-1 service activation date; network flowchart (including the company's relevant MSCs); specification of the technology used for interface to the selective router and the ALI/data management system (DMS) and a 9-1-1 call flow description; procedures for updating cell site and cell sector information; default and diverse routing plans; and an outline of Phase I E9-1-1 service testing procedures.

(45) **"Phase I interface to ALI data base"** shall mean the physical connection of Phase I ALI data circuits from a service control point (SCP) or selective router to the ALI data base, and the ALI feature enabling of the circuits.

(46) **"Phase I interface to selective router"** shall mean the physical connection of the Phase I 9-1-1 voice network from an MSC of an RCSC to a selective router, and the selective router feature enabling of the 9-1-1 trunks.

(47) **"Phase I master street address guide (MSAG)"** shall mean records in a master street address guide associated with each cell sector that provide cell site and cell sector identification, address, coverage information, service provider name, and PSAP of the cell sector for automatic display at the PSAP when a wireless 9-1-1 call is processed by that cell sector.

(48) **"Phase I testing"** shall mean testing conducted by an RCSC when Phase I E9-1-1 service is implemented to ensure the service is working correctly and testing after a company makes Phase I E9-1-1 service affecting additions or changes to their networks.

(49) **"Phase II address"** shall mean the latitude and longitude (and, when available, altitude) of the wireless end user.

(50) **"Phase II ALI"** shall mean the latitude and longitude (and, when available, altitude) of the wireless end user, in addition to the MDN information. When the latitude and

longitude are not available the Phase II ALI defaults to Phase I ALI as defined in this chapter.

(51) **"Phase II ALI data stream"** shall mean the location information and formatting required for data collected by the LDT and transmitted to the PSAP.

(52) **"Phase II computer aided dispatch (CAD) system upgrades"** shall mean upgrades to the PSAP CAD system necessary to interpret the Phase II ALI data stream or to provide output to display Phase II location.

(53) **"Phase II E9-1-1 service"** shall mean service provided by an RCSC that delivers Phase I E9-1-1 service and latitude and longitude (and, when available, altitude) of the wireless end user.

(54) **"Phase II implementation plan"** shall mean a plan of an RCSC or county for implementation of Phase II E9-1-1 service in a county or counties in Washington state, including, but not limited to: Phase II E9-1-1 service activation date; network flowchart (including specification of the technology used for Phase II); and an outline of Phase II E9-1-1 service testing procedures.

(55) **"Phase II testing"** shall mean testing conducted by an RCSC when Phase II E9-1-1 service is implemented to ensure the service is working correctly, and periodic testing necessary for the maintenance of the service.

(56) **"Position determining entity (PDE)"** is used interchangeably with and shall mean "location determination technology (LDT)" as defined herein.

(57) **"PSAP mapping"** shall mean a system capable of converting Phase II latitude and longitude (and, when available, altitude) to a map display at the 9-1-1 call answering positions at the PSAPs.

(58) **"Pseudo-ANI (P-ANI)"** shall mean a telephone number used to support routing of wireless 9-1-1 calls that may identify a wireless cell, cell sector, or PSAP to which the call should be routed.

(59) **"Public safety answering point (PSAP)"** shall mean the public safety answering location for 9-1-1 calls originating in a given area. PSAPs are designated as primary or secondary, which refers to the order in which calls are directed for answering.

(60) **"Radio communications service company (RCSC)"** shall mean every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court, and every city or town making available facilities to provide commercial mobile radio communications services, or cellular communications service for hire, sale, and both facilities-based and nonfacilities-based resellers, and does not include radio-paging providers.

(61) **"Regional PSAP"** shall mean a single facility answering 9-1-1 calls for multiple counties (two or more) on a twenty-four hours a day, seven days a week basis and operated under a single management and fiscal structure.

(62) **"Reverse ALI search"** shall mean the ability to electronically query the ALI data base to obtain an address associated with a known telephone number.

(63) **"Route diversity"** shall mean a method of assuring continuity of service by using multiple transmission routes to deliver a particular service between two points on a network.

(64) **"Selective router"** shall mean a switching office that provides tandem switching of 9-1-1 calls and controls delivery of a voice call with ANI to the PSAP and provides selective routing, speed calling, selective transfer, fixed transfer, and certain maintenance functions for each PSAP.

(65) **"Selective routing"** shall mean a feature that permits a 9-1-1 call to be routed to a predesignated PSAP based upon the address and/or location associated with the originating telephone number.

(66) **"Service control point (SCP)"** (also referred to as "signal control point") shall mean a remote data base within the signaling system 7 (SS7) signaling network that supplies the translation and routing data needed to deliver advanced network services.

(67) **"Service control point (SCP) Phase I capabilities"** shall mean data base and routing translations necessary for interpretation of data provided by the MSC on wireless 9-1-1 calls to allow 9-1-1 calls to be routed to the correct PSAP and display the correct MDN of the wireless phone and the correct cell site and cell sector information.

(68) **"Service control point (SCP) Phase II capabilities"** shall mean specific functions and features necessary for interpretation of Phase II data provided by the MPC on wireless 9-1-1 calls to allow 9-1-1 calls to be routed to the correct PSAP and display the latitude and longitude (and, when available, altitude) of the caller.

(69) **"Signaling system 7 (SS7)"** shall mean an out of band signaling system used to provide basic routing information, call set-up and other call termination functions in which signaling is removed from the voice channel itself and put on a separate data network.

(70) **"Switching office"** shall mean a telecommunications provider facility that houses the switching and trunking equipment serving telephones in a defined area.

(71) **"Switching office enabling"** shall mean the technology that allows the public network telephone switching office to recognize and accept the digits 9-1-1.

(72) **"Telecommunications provider"** shall mean a telecommunications company as defined in RCW 80.04.010, a RCSC as defined herein, and a commercial mobile radio service provider as defined in 47 CFR, section 20.3.

(73) **"TTY"** shall mean a telecommunications device that permits typed telephone conversations with or between deaf, hard of hearing, or speech impaired people with a machine at their location.

(74) **"Traffic studies"** shall mean 9-1-1 call studies performed by a telecommunications provider.

(75) **"Uninterruptible power supply (UPS)"** shall mean a system designed to provide power, without delay or electrical transients, during a period when the normal power supply is incapable of performing acceptably.

(76) **"Wireless end user"** shall mean any person or entity placing a 9-1-1 call on an RCSC's network.

[Statutory Authority: RCW 38.52.540. 03-10-014, § 118-66-030, filed 4/25/03, effective 7/1/03.]

WAC 118-66-040 County eligibility for funding. (1) As required by RCW 38.52.510, each county shall provide funding for the enhanced 9-1-1 communication system in the county or district in an amount equal to the amount the maximum taxes under RCW 82.14B.030(1) would generate in the county or district or the amount necessary to provide full

funding of the system in the county or district, whichever is less.

(2) A county in the state of Washington may be eligible to receive available wireline funds from the enhanced 9-1-1 account for certain eligible wireline enhanced 9-1-1 expenses as described in this chapter only if the county has imposed the maximum county wireline enhanced 9-1-1 tax allowed under RCW 82.14B.030(1).

(3) A county in the state of Washington may be eligible to receive available wireless funds from the enhanced 9-1-1 account for certain eligible wireless enhanced 9-1-1 expenses as described in this chapter related to implementation and operation of the enhanced wireless communication system only if the county has imposed the maximum county wireless enhanced 9-1-1 tax allowed under RCW 82.14B.030(2).

(4) Funds for wireless enhanced 9-1-1 service shall not be distributed to any county that has not negotiated or in good faith attempted to negotiate a wireless enhanced 9-1-1 Phase I or Phase II service agreement with the applicable RCSC(s).

[Statutory Authority: RCW 38.52.540. 03-10-014, § 118-66-040, filed 4/25/03, effective 7/1/03.]

WAC 118-66-042 Radio communications service company (RCSC) eligibility for wireless funding. (1) The state enhanced E9-1-1 coordinator is authorized to enter into statewide agreements to improve the efficiency of enhanced 9-1-1 services for all counties, and may do so through execution of statewide agreements with RCSC(s).

(2) Funds for wireless enhanced 9-1-1 service shall not be distributed to any radio communications service company that has not negotiated or in good faith attempted to negotiate a wireless enhanced 9-1-1 Phase I or Phase II service agreement with the applicable county(ies).

[Statutory Authority: RCW 38.52.540. 03-10-014, § 118-66-042, filed 4/25/03, effective 7/1/03.]

WAC 118-66-045 Washington state patrol (WSP) eligibility for wireless funding. Upon designation by a county as a public safety answering point for wireless 9-1-1 calls, Washington state patrol communications centers may be eligible to receive available wireless funds from the enhanced 9-1-1 account for ANI/ALI controllers and necessary interfaces to send data to other PSAP equipment, Phase I E9-1-1 voice network, PSAP mapping, Phase II CAD upgrades, and for ANI/ALI display equipment. Such eligibility shall be based on the portion of wireless 9-1-1 calls initially received by the regional Washington state patrol communications center serving the designating county.

[Statutory Authority: RCW 38.52.540. 03-10-014, § 118-66-045, filed 4/25/03, effective 7/1/03.]

WAC 118-66-050 Eligible expenses. Enhanced 9-1-1 communications systems are comprised of multiple components. Subject to available funds, expenses for implementation, operation, and maintenance costs of these components may be eligible for reimbursement if incurred by eligible entities. The components listed below may be eligible for reimbursement to eligible entities from the enhanced 9-1-1 account based on a reasonable prioritization by the state E9-1-1 coordinator with the advice and assistance of the enhanced 9-1-1 advisory committee and in accordance with the purposes and priorities established by statute and regulation, including WAC 118-66-020.

(1) Expenses for the following wireline components may be eligible for reimbursement from the enhanced 9-1-1 account from funds generated under the state wireline enhanced 9-1-1 excise tax (RCW 82.14B.030(3)):

(a) Statewide dialing items:

(i) Switching office enabling;

(ii) Automatic number identification (ANI);

(iii) 9-1-1 voice network (B.01/P.01 grade of service level required);

(iv) Traffic studies between switching offices and the selective router;

(v) MSAG coordination and maintenance;

(vi) ALI/DMS service;

(vii) Reverse ALI search capability;

(b) Basic service items:

(i) Route diversity between switching offices and selective router;

(2) Expenses for the following wireless components may be eligible for reimbursement from enhanced 9-1-1 account funds generated under the state wireless enhanced 9-1-1 excise tax (RCW 82.14B.030(4)):

(a) Wireless Phase I E9-1-1 service components:

(i) Phase I automatic location identification (ALI);

(ii) Phase I address;

(iii) Service control point Phase I capabilities;

(iv) Phase I ALI data base;

(v) Phase I MSAG coordination;

(vi) Phase I interface to selective router;

(vii) Phase I interface to ALI data base;

(viii) Phase I testing;

(ix) Phase I implementation plans;

(x) Phase I implementation agreements;

(xi) Pseudo-ANI (P-ANI);

(xii) Phase I 9-1-1 voice network;

(xiii) MSC Phase I software capabilities;

(xiv) Traffic studies between the MSC and selective router;

(xv) Phase I ALI data circuits;

(b) Wireless E9-1-1 Phase II service components (including all Phase I components):

(i) PSAP mapping;

(ii) Phase II CAD system upgrades;

(iii) Location determination technology;

(iv) Phase II implementation plan;

(v) Phase II testing;

(vi) MSC Phase II software capabilities;

(vii) Service control point Phase II capabilities; and

(viii) Mobile positioning center.

(3) Expenses for the following components are shared with wireline and wireless enhanced 9-1-1 services and may be eligible for reimbursement from enhanced 9-1-1 account funds generated under the state wireline enhanced 9-1-1 excise tax (RCW 82.14B.030(3)) and from enhanced 9-1-1 account funds generated under the statewide wireless enhanced 9-1-1 excise tax (RCW 82.14B.030(4)):

(a) Statewide dialing items:

(i) Selective routing;

(ii) Automatic location identification (ALI) data base;

(iii) Traffic studies between selective router and PSAP;

(iv) ANI/ALI controllers and necessary interfaces to send data to other PSAP equipment;

(v) ANI/ALI display equipment for primary PSAPs;

(vi) That portion of a telephone system compatible with enhanced 9-1-1 that is used to answer 9-1-1 calls;

(vii) TTY required for compliance with the American Disabilities Act (ADA);

(viii) County 9-1-1 coordinator duties;

(b) Basic service items:

(i) Call detail recorder and/or printer;

(ii) E9-1-1 mapping administration;

(iii) Mapping display for call answering positions that are ANI/ALI equipped.

(iv) Instant call check equipment (one per 9-1-1 call answering position);

(v) Uninterruptible power supply (UPS) for PSAP enhanced 9-1-1 equipment;

(vi) 9-1-1 management information system;

(vii) Headsets for 9-1-1 call takers;

(viii) 9-1-1 call receiver salaries and benefits;

(ix) Language line service;

(x) Call receiver training;

(xi) Enhanced 9-1-1 document retention and destruction;

(xii) 9-1-1 coordinator electronic mail;

(xiii) Route diversity between selective router and PSAP;

(xiv) Alternate routing and/or night service;

(c) Capital:

(i) Auxiliary generator to support 9-1-1 emergency telephone service for backup;

(ii) Logging recorder for 9-1-1 call;

(iii) Computer aided dispatch (CAD) system hardware and software; and

(iv) Clock synchronizer.

[Statutory Authority: RCW 38.52.540. 03-10-014, § 118-66-050, filed 4/25/03, effective 7/1/03.]

WAC 118-66-080 Allocation of funds. (1) Within available funds and consistent with statutory and regulatory purposes and priorities, the state enhanced 9-1-1 coordinator (with the advice and assistance of the enhanced 9-1-1 advisory committee) has the discretion to allocate enhanced 9-1-1 account funds to eligible entities as reimbursement for wireline and wireless enhanced 9-1-1 eligible expenses.

(2) Eligible expenses for wireline components established in WAC 118-66-050(1) may only be eligible for reimbursement from enhanced 9-1-1 account funds generated under the state wireline enhanced 9-1-1 excise tax (RCW 82.14B.030(3)). Such funds shall be allocated based on statutory and regulatory purposes and priorities and WAC 118-66-020.

(3) Eligible expenses for wireless components established in WAC 118-66-050(2) may only be eligible for reimbursement from enhanced 9-1-1 account funds generated under the state wireless enhanced 9-1-1 excise tax (RCW 82.14B.030(4)). Such funds shall be allocated based on statutory and regulatory purposes and priorities and WAC 118-66-020.

(4) Eligible expenses for components established in WAC 118-66-050(3) may be eligible for reimbursement from enhanced 9-1-1 account funds generated under the state wireline enhanced 9-1-1 excise tax (RCW 82.14B.030(3)) and enhanced 9-1-1 account funds generated under the state wireless enhanced 9-1-1 excise tax (RCW 82.14B.030(4)). The amount allocated from each tax source will be based on an equitable distribution determined by the state E9-1-1 coordinator with the advice and assistance of the enhanced 9-1-1 advisory committee. Such funds shall be allocated based on statutory and regulatory purposes and priorities and WAC 118-66-020.

[Statutory Authority: RCW 38.52.540. 03-10-014, § 118-66-080, filed 4/25/03, effective 7/1/03.]

WAC 118-66-081 Funding applications. Requests for funding shall be submitted in accordance with application formats developed by the state E9-1-1 coordinator and shall include plans and budget information justifying the funding request, an annual schedule of eligible items, funding levels, and funding priority. The state E9-1-1 coordinator will establish a schedule of annual application dates.

[Statutory Authority: RCW 38.52.540. 03-10-014, § 118-66-081, filed 4/25/03, effective 7/1/03.]

WAC 118-66-085 Reporting requirements for radio communications service companies (RCSCs). In addition to other reports that may be required as a condition of funding, RCSCs shall report to the state E9-1-1 office, on a per county basis, the total number of customers, including customers that are using resold services from that company, based on the customer's place of primary use. These numbers shall reflect the total number of customers at the end of each calendar year and shall be furnished to the respective county enhanced 9-1-1 coordinator by March 1 of the following year. RCSCs shall conduct traffic studies on 9-1-1 call volumes between their MSC and each selective router in the state as requested by the state E9-1-1 coordinator. Up to four studies may be requested by the state E9-1-1 coordinator during any calendar year.

[Statutory Authority: RCW 38.52.540. 03-10-014, § 118-66-085, filed 4/25/03, effective 7/1/03.]

WAC 118-66-090 Other rules. Through other state agencies, such as, the Washington utilities and transportation commission, rules have and will be adopted which will impact the statewide operation of enhanced 9-1-1. By this reference, this rule is intended to be consistent with and complementary to these other rules.

[Statutory Authority: RCW 38.52.540. 03-10-014, § 118-66-090, filed 4/25/03, effective 7/1/03.]

Chapter 118-67 WAC

WIRELESS ENHANCED 9-1-1 CALLS FROM RADIO COMMUNICATIONS SERVICE COMPANIES—TECHNICAL AND OPERATIONAL STANDARDS

WAC

118-67-010	Authority.
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118-67-100	Requirements for PSAPs.
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118-67-120	Nonservice initialized handsets.
118-67-130	Manufacturers of 9-1-1-only handsets.

WAC 118-67-010 Authority. This chapter is promulgated pursuant to the authority granted in RCW 38.52.561.

[Statutory Authority: RCW 38.52.561. 04-01-066, § 118-67-010, filed 12/12/03, effective 1/12/04.]

WAC 118-67-020 Purpose. (1) RCW 38.52.561 authorizes the state enhanced 9-1-1 coordinator, with the advice and assistance of the enhanced 9-1-1 advisory committee, to set nondiscriminatory, uniform technical and operational standards consistent with the rules of the Federal Communication Commission (FCC) for the transmission of 9-1-1 calls from radio communications service companies to enhanced 9-1-1 emergency communications systems. These standards must not exceed the requirements set by the FCC.

(2) The FCC, in its orders may refer to or approve standards adopted by the following standards bodies:

(a) Alliance for Telecommunications Industry Solutions (ATIS);

(b) Emergency Services Interconnection Forum (ESIF);

(c) National Emergency Number Association (NENA).

(3) This chapter is based upon and does not exceed FCC requirements contained in 47 CFR § 20.18.

[Statutory Authority: RCW 38.52.561. 04-01-066, § 118-67-020, filed 12/12/03, effective 1/12/04.]

WAC 118-67-030 Definitions. (1) **"Alliance for Telecommunications Industry Solutions (ATIS)"** shall mean the membership organization that provides the tools necessary for the industry to identify standards, guidelines and operating procedures that make the interoperability of existing and emerging telecommunications products and services possible.

(2) **"Emergency Services Interconnection Forum (ESIF)"** shall mean the working group of ATIS that provides a venue for the telecommunications industry, public safety and other stakeholders to develop and refine technical and operational interconnection issues that will ensure E9-1-1 service will be available for everyone.

(3) **"Federal Communications Commission (FCC)"** shall mean the agency of the federal government established under the Communications Act of 1934, as revised, for the purpose of regulating interstate communication by wire and radio.

(4) **"Electronic serial number (ESN)"** shall mean the unique 11-digit serial number assigned to the handset by the manufacturer.

(5) **"International mobile equipment identifier (IMEI)"** shall mean the unique 15-digit serial number assigned to a global system for mobile communication (GSM) handset used on a GSM wireless network.

(6) **"National emergency number association (NENA)"** shall mean the group established to foster the technological advancement, availability, and implementation of a universal emergency telephone number system.

(7) **"Nonservice initialized handsets"** shall mean a handset for which there is no valid service contract with an RCSC.

(8) **"Phase I enhanced 9-1-1 service"** shall mean wireless 9-1-1 service where the RCSC is required to provide the telephone number of the originator of a 9-1-1 call and the location of the cell site or base station receiving a 9-1-1 call from any mobile handset accessing their systems to the designated PSAP through the use of ANI and Pseudo-ANI (see WAC 118-66-030).

(9) **"Phase II enhanced 9-1-1 service"** shall mean wireless 9-1-1 service where the RCSC is required to provide the telephone number of the originator of a 9-1-1 call and the location by latitude and longitude to the designated PSAP.

(10) **"Radio communications service company (RCSC)"** shall mean every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court, and every city or town making available facilities to provide commercial mobile radio communications services, or cellular communications service for hire, sale, and both facilities-based and nonfacilities-based resellers, and does not include radio-paging providers.

(11) **"9-1-1 Only handsets"** shall mean a nonservice initialized handset that is manufactured with the capability of dialing 9-1-1 only and that cannot receive incoming calls.

[Statutory Authority: RCW 38.52.561. 04-01-066, § 118-67-030, filed 12/12/03, effective 1/12/04.]

WAC 118-67-040 Introduction. (1) Radio communications service companies (RCSCs) shall comply with the technical and operational standards established by the Federal Communications Commission for the transmission of 9-1-1 calls in section 47 CFR Chapter I, § 20.18 of the FCC Rules.

(2) The authority given to the state enhanced 9-1-1 coordinator by RCW 38.52.561 is limited to setting standards as set forth in that section and does not constitute authority to regulate radio communications service companies.

[Statutory Authority: RCW 38.52.561. 04-01-066, § 118-67-040, filed 12/12/03, effective 1/12/04.]

WAC 118-67-050 Phase II accuracy. (1) RCSCs shall meet or exceed the location accuracy standards for Phase II enhanced 9-1-1:

(a) For network-based technologies: 100 meters for 67 percent of calls, 300 meters for 95 percent of calls;

(b) For handset-based technologies: 50 meters for 67 percent of calls, 150 meters for 95 percent of calls.

(c) For the remaining 5 percent of calls, location attempts must be made and a location estimate for each call must be provided to the appropriate PSAP.

(2) Adhere to schedules for implementation of Phase I and Phase II enhanced 9-1-1 service (see paragraphs 20.18 (d) through (g) of the FCC Rules and subsequent modifications of the FCC's Richardson Order and Phase II Compliance Deadlines in CC Docket 94-102):

[Statutory Authority: RCW 38.52.561. 04-01-066, § 118-67-050, filed 12/12/03, effective 1/12/04.]

WAC 118-67-060 Phase I enhanced 9-1-1 service. (1) Within six months of a request by the designated public safety answering point as set forth in WAC 118-67-100, RCSCs must provide the telephone number of the originator of a 9-1-1 call and the location of the cell site or base station receiving a 9-1-1 call from any mobile handset accessing their systems to the designated public safety answering point through the use of ANI and pseudo-ANI.

(2) When the directory number of the handset used to originate a 9-1-1 call is not available to the serving carrier, such carrier's obligations under paragraph (1) of this section extend only to delivering 9-1-1 calls and available call party information, including that prescribed in WAC 118-67-120 to the designated public safety answering point.

(3) With respect to 9-1-1 calls accessing their systems through the use of TTYs, RCSCs must comply with the requirements in paragraphs (1) and (2) of this section, as to calls made using a digital wireless system.

[Statutory Authority: RCW 38.52.561. 04-01-066, § 118-67-060, filed 12/12/03, effective 1/12/04.]

WAC 118-67-070 Phase II enhanced 9-1-1 service. RCSCs must provide to the designated public safety answering point, Phase II enhanced 9-1-1 service, i.e., the location of all 9-1-1 calls by longitude and latitude in conformance with Phase II accuracy requirements of WAC 118-67-050.

[Statutory Authority: RCW 38.52.561. 04-01-066, § 118-67-070, filed 12/12/03, effective 1/12/04.]

WAC 118-67-080 Network-based location technologies. RCSCs that employ a network-based location technology shall provide Phase II enhanced 9-1-1 service to at least 50 percent of their coverage area or 50 percent of their population beginning within 6 months of a PSAP request, and to 100 percent of their coverage area or 100 percent of their population within 18 months of such a request.

[Statutory Authority: RCW 38.52.561. 04-01-066, § 118-67-080, filed 12/12/03, effective 1/12/04.]

WAC 118-67-090 Handset-based location technologies. RCSCs that employ a handset-based location technology may phase in deployment of Phase II enhanced 9-1-1 service, subject to the following requirements:

(1) Without respect to any PSAP request for deployment of Phase II 9-1-1 enhanced service, the RCSC shall:

(a) Ensure that 100 percent of all new digital handsets activated are location-capable.

(b) By December 31, 2005, achieve 95 percent penetration of location-capable handsets among its subscribers.

(2) Once a PSAP request is received, the RCSC shall, in the area served by the PSAP, within six months:

(a) Install any hardware and/or software in the CMRS network and/or other fixed infrastructure, as needed, to enable the provision of Phase II enhanced 9-1-1 service; and

(b) Begin delivering Phase II enhanced 9-1-1 service to the PSAP.

(3) For all 9-1-1 calls from portable or mobile phones that do not contain the hardware and/or software needed to enable the RCSC to provide Phase II enhanced 9-1-1 service, the RCSC shall, after a PSAP request is received, support, in the area served by the PSAP, Phase I location for 9-1-1 calls or other available best practice method of providing the location of the portable or mobile phone to the PSAP.

(4) RCSCs employing handset-based location technologies shall ensure that location-capable portable or mobile phones shall conform to industry interoperability standards designed to enable the location of such phones by multiple RCSCs.

[Statutory Authority: RCW 38.52.561. 04-01-066, § 118-67-090, filed 12/12/03, effective 1/12/04.]

WAC 118-67-100 Requirements for PSAPs. PSAPs shall request Phase I or Phase II enhanced service from RCSCs providing wireless service in their areas based on the following requirements:

(1) The requirements set forth in WAC 118-67-050, 118-67-060, 118-67-070, 118-67-080, and 118-67-090, shall be applicable only if the administrator of the designated public safety answering point has requested the services required under those paragraphs and is capable of receiving and utilizing the data elements associated with the service, and a mechanism for recovering the public safety answering point's costs of the enhanced 9-1-1 service is in place.

(2) A public safety answering point will be deemed capable of receiving and utilizing the data elements associated with the service requested if it can demonstrate that it has ordered the necessary equipment and has commitments from suppliers to have it installed and operational within the six-month period specified in WAC 118-67-060, 118-67-080, or 118-67-090, as applicable, and can demonstrate that it has made a timely request to the appropriate LEC for the necessary trunking and other facilities.

(3) In the alternative, a public safety answering point will be deemed capable of receiving and utilizing the data elements associated with Phase II service if it is Phase I-capable using an NCAS methodology, and if it can demonstrate that it has made a timely request to the appropriate LEC for the ALI data base upgrade necessary to receive the Phase II information.

[Statutory Authority: RCW 38.52.561. 04-01-066, § 118-67-100, filed 12/12/03, effective 1/12/04.]

WAC 118-67-110 TTY access to 9-1-1 services. RCSCs subject to this section must be capable of transmitting 9-1-1 calls from individuals with speech or hearing disabilities through means other than mobile radio handsets, e.g., through the use of text telephone devices (TTY). Operators of digital wireless systems must comply with the provisions of this paragraph.

[Statutory Authority: RCW 38.52.561. 04-01-066, § 118-67-110, filed 12/12/03, effective 1/12/04.]

WAC 118-67-120 Nonservice initialized handsets. RCSCs that donate a nonservice initialized handset for purposes of providing access to 9-1-1 services are required to:

(1) Program each handset with 9-1-1 plus the decimal representation of the seven least significant digits of the electronic serial number, international mobile equipment identifier or any other identifier unique to that handset;

(2) Affix to each handset a label that is designed to withstand the length of service expected for a nonservice initial-

ized phone, and that notifies the user that the handset can only be used to dial 9-1-1, that the 9-1-1 operator will not be able to call the user back, and that the user should convey the exact location of the emergency as soon as possible; and

(3) Institute a public education program to provide the users of such handsets with information regarding the limitations of nonservice initialized handsets.

[Statutory Authority: RCW 38.52.561. 04-01-066, § 118-67-120, filed 12/12/03, effective 1/12/04.]

WAC 118-67-130 Manufacturers of 9-1-1-only handsets. Manufacturers of 9-1-1-only handsets that are manufactured after May 3, 2004, are required to:

(1) Program each handset with 9-1-1 plus the decimal representation of the seven least significant digits of the electronic serial number, International Mobile Equipment Identifier or any other identifier unique to that handset;

(2) Affix to each handset a label that is designed to withstand the length of service expected for a nonservice initialized phone, and which notifies the user that the handset can only be used to dial 9-1-1, that the 9-1-1 operator will not be able to call the user back, and that the user should convey the exact location of the emergency as soon as possible; and

(3) Institute a public education program to provide the users of such handsets with information regarding the limitations of 9-1-1-only handsets.

[Statutory Authority: RCW 38.52.561. 04-01-066, § 118-67-130, filed 12/12/03, effective 1/12/04.]

Title 131 WAC

COMMUNITY AND TECHNICAL COLLEGES, BOARD FOR

Chapters

131-12 Students.
131-28 Tuition and fee charges.

Chapter 131-12 WAC
STUDENTS

WAC

131-12-080 Student progress toward degrees and certificates.

WAC 131-12-080 Student progress toward degrees and certificates. In the 2003 legislative session the legislature passed a bill that requires community and technical colleges to adopt policies and procedures to expedite students' progress toward their program goals. The intent of the legislation is to encourage students enrolled in degree or certificate programs to complete their programs with limited additional credits. The policies and procedures should address:

(1) Students who accumulate more than one hundred twenty-five percent of the number of credits required to complete an associate degree or certificate;

(2) Students who have a pattern of dropping more than twenty-five percent of their course load; and

(3) Students who remain on academic probation for more than one quarter.

Colleges will report to the state board for community and technical colleges the policies and procedures that they approve.

[Statutory Authority: Chapter 28B.50 RCW. 03-22-026, § 131-12-080, filed 10/27/03, effective 11/27/03.]

Chapter 131-28 WAC
TUITION AND FEE CHARGES

WAC

131-28-026 Tuition charges for certain ungraded courses.

WAC 131-28-026 Tuition charges for certain ungraded courses. (1) The state board shall designate ungraded courses. These courses may be offered at tuition rates that differ from the standard rates set by WAC 131-28-025.

(2) Ungraded courses shall meet the following qualifications:

(a) The primary intent of offering the course is other than providing academic credit applicable to an associate or higher degree.

(b) The course has a specialized purpose in that it is intended to meet the unique educational needs of a specific category or group of students.

(c) The course is offered for the purpose of providing the individual student with a discrete skill or basic body of knowledge other than that intended to lead to initial employment.

(d) The course cannot be administered as a contract course pursuant to WAC 131-28-027, 131-32-010, or 131-32-020.

(e) The course is not offered primarily as an integral part of any lower-division curriculum or program.

(f) The course is not one specifically or primarily intended to satisfy requirements for receiving a high school diploma.

(3) Colleges may establish the amount of waiver for the following ungraded courses:

(a) Farm management and small business management;

(b) Emergency medical technician and paramedic continuing education;

(c) Retirement;

(d) Industrial first aid offered to satisfy WISHA and approved by the department of labor and industries;

(e) Journeyperson training in cooperation with joint apprenticeship and training committees.

(4) The waiver amounts for the following ungraded courses shall conform with the following schedule:

(a) Adult basic education, English as a second language, GED preparation: No charge.

(b) Parent education involving a cooperative preschool program: Eighty-five percent reduction from the standard per credit tuition and services activities fee charge.

(c) Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices indentured with the Washington state apprenticeship council or federal Bureau of Apprenticeship and Training: Two-thirds reduction from the standard per credit tuition and services and activities fee charge. The college may convert the credit hour charge to a rounded amount per clock hour. Colleges may not deduct the tuition owed from training contract with apprentice organizations.

(5) Students taking both regular and ungraded courses will be charged separately for the courses.

(6) Application of this section shall be subject to administrative procedures established by the state director with respect to maximum credit values of such ungraded courses, curriculum, or any unique circumstances related to enrollment in such courses.

(7) Ungraded course fees received pursuant to this section shall be accounted for and deposited in local community college operating fee accounts established in RCW 28B.15.031.

(8) Ungraded course fees may be paid by the sponsoring entity rather than an individual student.

[Statutory Authority: Chapter 28B.50 RCW. 03-19-050, § 131-28-026, filed 9/10/03, effective 10/11/03; 98-22-062, § 131-28-026, filed 11/2/98, effective 12/3/98. Statutory Authority: Chapters 28B.15 and 28B.50 RCW. 96-03-049, § 131-28-026, filed 1/12/96, effective 1/12/96; 95-13-070, § 131-28-026, filed 6/20/95, effective 7/21/95. Statutory Authority: RCW 28B.15.502 and 1992 c 231, 232 and 238. 92-14-033 (Order 139, Resolution No. 92-06-39), § 131-28-026, filed 6/23/92, effective 7/24/92. Statutory Authority: RCW 28B.15.502. 91-21-011 (Order 133, Resolution No. 91-49), § 131-28-026, filed 10/4/91, effective 11/4/91. Statutory Authority: RCW 28B.50.090 (7)(d) and (10), 28B.50.851, 28B.15.502(4), 28B.15.522, 28B.50.140(3) and 1990 c 29. 90-20-009 (Order 122, Resolution Nos. 90-42 and 90-43), § 131-28-026, filed 9/20/90, effective 10/21/90. Statutory Authority: RCW 28B.15.502. 89-14-037 (Order 116, Resolution No. 89-16), § 131-28-026, filed 6/29/89. Statutory Authority: RCW 28B.15.502 and 28B.15.740. 82-22-023 (Order 94, Resolution No. 82-37), § 131-28-026, filed 10/26/82. Statutory Authority: RCW 28B.15.502. 82-11-035 (Order 93, Resolution No. 82-16), § 131-28-026, filed 5/11/82. Statutory Authority: RCW 28B.15.500 as amended by chapter 257, Laws of 1981. 81-19-060 (Order 89, Resolution No. 81-65), § 131-28-026, filed 9/14/81. Statutory Authority: Chapter 34.04 RCW and WAC 1-12-065. 78-07-064 (Order 71, Resolution No. 78-29), § 131-28-026, filed 6/30/78; Order 63 and Emergency Order 64, § 131-28-026, filed 9/13/77, effective 9/13/77; Order 25, § 131-28-026, filed 4/22/74, effective 7/1/74.]

Title 132A WAC

COMMUNITY COLLEGES—PENINSULA COLLEGE

Chapters

132A-116 Motor vehicle regulations.
132A-150 Health and safety.
132A-320 Loss of eligibility—Student athletic participation.

Chapter 132A-116 WAC
MOTOR VEHICLE REGULATIONS

WAC

132A-116-011 Parking fees.

WAC 132A-116-011 Parking fees. All employees with assigned parking and all students will pay fees for campus parking. Fees for parking will be established by the board of trustees.

[Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. 03-13-133, § 132A-116-011, filed 6/18/03, effective 7/19/03; 99-15-072, § 132A-116-011, filed 7/20/99, effective 8/20/99.]

Chapter 132A-150 WAC
HEALTH AND SAFETY

WAC

132A-150-010 Animals on campus.

WAC 132A-150-010 Animals on campus. With the exception of trained service animals, animals are not allowed in public areas of buildings or in areas shared by staff. Any animal on college property must be attended and on a leash at all times. Animals may not be tied up and left unattended. Animals found locked in vehicles on college property will be reported to the animal control authority. Violators are subject to institutional discipline and/or dismissal from campus.

[Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. 03-13-133, § 132A-150-010, filed 6/18/03, effective 7/19/03; 99-15-072, § 132A-150-010, filed 7/20/99, effective 8/20/99.]

Chapter 132A-320 WAC
LOSS OF ELIGIBILITY—STUDENT ATHLETIC PARTICIPATION

WAC

132A-320-010 Grounds for ineligibility.

WAC 132A-320-010 Grounds for ineligibility. Any student found to have violated chapter 69.41 or 69.50 RCW or provisions of WAC 132A-120-011 (1) through (3) or by virtue of a criminal conviction or otherwise, insofar as it prohibits the possession, use or sale, or furnishing of legend drugs, including anabolic steroids, will be disqualified from participation in any school-sponsored athletic event or activity.

[Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. 03-13-133, § 132A-320-010, filed 6/18/03, effective 7/19/03; 99-15-072, § 132A-320-010, filed 7/20/99, effective 8/20/99.]

Title 132B WAC

COMMUNITY COLLEGES—GRAYS HARBOR COLLEGE

Chapters

132B-120 Student conduct code.

Chapter 132B-120 WAC
STUDENT CONDUCT CODE

WAC

132B-120-010 Definitions.

132B-120-030	Jurisdiction.
132B-120-040	Prohibited conduct.
132B-120-065	Student rights.
132B-120-080	Classroom conduct.
132B-120-085	Groups and organizations.
132B-120-120	Disciplinary process.
132B-120-130	Sanctions.
132B-120-135	Summary suspension procedures.
132B-120-170	Student conduct committee.
132B-120-180	Student conduct committee procedures.
132B-120-190	Appeals.
132B-120-200	Reporting, recording and maintaining records.
132B-120-220	Student grievance procedure.

WAC 132B-120-010 Definitions. As used in this document the following words and phrases shall mean:

(1) "Board" shall mean the board of trustees of Community College District No. 2, state of Washington.

(2) "College" shall mean Grays Harbor College or any additional community college hereafter established within Community College District No. 2, state of Washington.

(3) "Liquor" shall mean the definition of liquor as contained within RCW 66.04.010 as now law or hereafter amended.

(4) "Controlled substances" shall mean the definition of controlled substances as defined in RCW 69.50.101 as now law or hereafter amended.

(5) "College facilities" shall mean and include any or all real property owned, rented, leased, controlled or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto. College facilities extend to affiliated websites, distance learning classroom environments and agencies or institutions that have educational agreements with Grays Harbor College.

(6) "President" shall mean the chief executive officer of the college appointed by the board of trustees.

(7) "Vice-president" shall mean the vice-president for student services or in his/her absence, the vice-president for instruction.

(8) "Faculty" shall mean any person employed on a full or part-time basis as a teacher, instructor, counselor, coach or librarian for the college or an affiliated institution.

(9) "Student" shall mean and include any person who is enrolled in courses through the college or is in the process of applying for admission to the college.

(10) "Employee" shall mean any classified, faculty, administrator, exempt, student worker or volunteer person of the college or an affiliated institution.

(11) "College community" shall mean all employees and students of the college.

(12) "Disciplinary action" shall mean any of the sanctions listed in WAC 132B-120-130.

(13) "Sexual harassment" shall mean unwelcome verbal or physical conduct of a sexual nature, unwelcome or unsolicited sexual advances or requests for sexual favors when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic standing or employment;

(b) Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or educational environment.

Examples of behaviors that may constitute harassment include but are but are not limited to: Repeated, offensive and unwelcome insults and/or jokes; pressure for dates or sex, if unwelcome or repeated; repeated, unwelcome comments about an individual's body or clothing; persistent, unwelcome flirtation, advances and/or propositions of a sexual nature; deliberate and unwelcome touching, such as patting, hugging, pinching or repeated brushing against a person's body.

(14) "Hazing" shall mean any method of initiation into a student organization or association or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education or postsecondary institution. Hazing does not include customary athletic events or other similar contests or competitions.

(15) "Trespass" shall be defined in accordance with chapter 9A.52 RCW.

(16) "Assembly" shall mean any activity engaged in by two or more persons the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any person, persons or group of persons.

(17) "RCW" shall mean the Revised Code of Washington.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-010, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-010, filed 4/6/98, effective 5/7/98. Statutory Authority: RCW 28B.50.140(13) and 69.41.340. 91-11-102, § 132B-120-010, filed 5/22/91, effective 6/22/91. Statutory Authority: RCW 28B.50.140(13). 80-10-053 (Order 80-1, Resolution No. 10-80), § 132B-120-010, filed 8/6/80.]

WAC 132B-120-030 Jurisdiction. All rules herein adopted concerning student conduct and discipline shall apply to every student whenever said student is engaged in or present at any college-related activity whether occurring on or off of college facilities. The college may carry out disciplinary proceedings prior to, simultaneous with, or following civil or criminal proceedings in a court. The college is not a policing agent for students when they are not in college facilities but does reserve the right to take action if a student's behavior is determined to threaten the health, safety, and/or property of the college and the college community.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-030, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-030, filed 4/6/98, effective 5/7/98; 80-10-053 (Order 80-1, Resolution No. 10-80), § 132B-120-030, filed 8/6/80.]

WAC 132B-120-040 Prohibited conduct. Disciplinary action may be taken for a violation of any provision of this student code or for a violation of other college rules and regulations which may from time to time be properly enacted or for specific prohibited conduct including but not limited to the following:

(1) Smoking and use of tobacco products anywhere other than designated smoking areas.

(2) Using, possessing, consuming, or being under the influence of, or distributing any liquor as defined in RCW 66.04.010, when present at or engaged in any college sponsored activity with the exception of sanctioned events

approved by the president or designee and in compliance with state law.

(3) Using, possessing, distributing or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101 in a college facility or while participating in a college-related program.

(4) Engaging in lewd, indecent, or obscene behavior.

(5) Where the student presents an imminent danger to college property or to himself/herself or to other students or persons in college facilities on or off campus, or to the education process of the college.

(6) Interference by force or violence with, or intimidation by threat of force or violence, of another student, employee or visitor who is in the peaceful discharge or conduct of his/her duties or studies (RCW 28B.10.570 through 28B.10.572).

(7) Disorderly or abusive behavior either physical or verbal which interferes with the rights of others or that obstructs or disrupts teaching, learning, research, services, activities or administrative functions.

(8) Conducting or participating in an assembly which violates the guidelines of assembly as defined in Section II E.

(9) All forms of student academic dishonesty, including cheating, falsification, plagiarism or facilitating, aiding and abetting academic dishonesty.

(a) This section shall not be construed as preventing an instructor from taking immediate disciplinary action as provided herein where the instructor is required to act upon such breach of academic dishonesty in order to preserve order and prevent disruptive conduct in the classroom.

(b) This section shall also not be construed as preventing an instructor from adjusting the student's grade on a particular project, paper, test, or class grade for academic dishonesty.

(10) Forgery of or unauthorized alteration of or access to any college document, record, funds or instrument of identification, including electronic hardware, software and records.

(11) Providing false information to the college or the intentional making of false statements and/or filing of false charges against the college and/or members of the college community.

(12) Theft from college premises and/or property; theft of property of a member of the college community on college premises; or possession of property stolen from college premises and/or a member of the college community while on college premises.

(13) Causing or attempting to cause physical damage to property owned, controlled or operated by the college or to property owned, controlled or operated by another person while said property is located on college facilities.

(14) Failure to comply with the direction of college employees acting in the legitimate performance of their duties.

(15) Refusal to provide positive identification and evidence of student enrollment to any college employee in the lawful discharge of said employee's duties.

(16) Possession, transportation or storage of any firearm(s), explosives, dangerous chemicals or other weapons, devices or substances which can be used to inflict bodily harm or to damage real or personal property. This does not apply to commissioned police officers as prescribed by law.

(17) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(18) Computer violations which include, but are not limited to:

(a) Gaining access, without authorization, to a computer system or network, or electronic data owned, used by, or affiliated with Grays Harbor College;

(b) Unauthorized use of another individual's account, identification or password;

(c) Use of computer facilities to interfere with the work of another student, faculty member, college employee or computer network operations;

(d) Use of computer facilities to send or solicit obscene, abusive, bothersome or harassing messages;

(e) Use of college e-mail accounts to intentionally disseminate viruses, destructive, malicious or invasive programs;

(f) Use of college computers or systems for other than educational purposes;

(g) Use of college computer equipment to participate in illegal or unauthorized activities;

(h) Violating any of the computer use policies in effect on campus.

(19) Sexual harassment as defined in Section IB12 of another student or employee.

(20) Any repeated intentional conduct directed at another student or employee that has the purpose or effect of creating a hostile, intimidating or disruptive learning or working environment. (This may include intentional, repeated, unwelcome attempts to contact a student or employee.)

(21) Hazing in any form as described in RCW 28B.10.900.

(22) The breech of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular trade, skill, craft or profession for which the student is taking courses or is pursuing as their educational goal.

(23) Malicious harassment that involves intimidation or bothersome behavior directed toward another person because of, or related to that person's race, color, religion, gender, sexual orientation, ancestry, national origin, or mental, physical or sensory disability.

(24) Unauthorized use of college equipment, facilities or supplies. Use of college equipment, facilities, supplies, or computer systems for personal gain without proper authority.

(25) Violation of federal, state or local law in college facilities or at college-sponsored or supervised activities.

(26) Violation of other published college policies, rules or regulations.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-040, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-040, filed 4/6/98, effective 5/7/98; 80-10-053 (Order 80-1, Resolution No. 10-80), § 132B-120-040, filed 8/6/80.]

WAC 132B-120-065 Student rights. The following rights are endorsed by the college for each student within the limitations of statutory law and college policy which are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed rights of free inquiry, expression and peaceful assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students have the right to a learning environment which is free from unlawful discrimination and sexual harassment.

(d) Students are protected from academic evaluation which is arbitrary, prejudiced or capricious, and are responsible for meeting the standards of academic performance established by each of their instructors.

(2) Nondiscrimination. Students have the right not to be discriminated against on the basis of age, color, creed, disability, gender, marital status, national origin or ancestry, race, religion, sexual orientation, or veteran status.

(3) Due process. Students have the right of due process. No disciplinary action may be imposed without notice to the accused of the nature of the charges. A student accused of violating the code of conduct is entitled to procedural due process as set forth in the code.

(4) Campus speakers. Recognized student organizations shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding and compliance with college procedures.

(5) Right to assembly. Students shall have the right of assembly upon college facilities that are generally available to the public provided such assemblies:

(a) Are conducted in an orderly manner;

(b) Do not unreasonably interfere with vehicular or pedestrian traffic;

(c) Do not unreasonably interfere with classes, scheduled meetings or ceremonies or regular functions of the college;

(d) Do not cause destruction or damage to college property;

(e) Are in compliance with procedures established in Administrative Procedure 516.03.

(6) Distribution of materials. Handbills, leaflets, newspapers and similarly related materials may be distributed free of charge by any student or students, or by members of recognized student organizations, or by college employees on or in college facilities at locations specifically designated by the vice-president for student services; and are in compliance with procedures established in Administrative Procedure 516.03 provided such distribution does not interfere with the ingress or egress of persons or interfere with the free flow of vehicular or pedestrian traffic.

Such handbills, leaflets, newspaper and related matter must bear identification as to the publishing agency and distributing organization or individual.

All nonstudents shall register with the vice-president for student services prior to the distribution of any handbill, leaflet, newspaper or related matter. Such distribution must not interfere with the free flow of vehicular or pedestrian traffic.

Any person or persons who violate any provisions of this rule relating to the distribution of materials will be subject to disciplinary action.

(7) Commercial activities. College facilities will not be used for commercial solicitation, advertising or promotional activities except when such activities clearly serve educational objectives, including but not limited to display of books of interest to the academic community or the display or demonstration of technical or research equipment, and when such commercial activities relate to educational objectives and are conducted under the sponsorship or at the request of the college, or the office of the associated students of the college; provided that such solicitation does not interfere with or operate to the detriment of the conduct of college affairs or the free flow of vehicular or pedestrian traffic.

(8) Fund-raising. Students and student organizations have the right to engage in fund-raising activities subject to the approval of the vice-president for student services.

(9) Grievances. Students have the right to express and resolve misunderstandings, complaints and grievances according to the stated grievance procedures.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-065, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-065, filed 4/6/98, effective 5/7/98.]

WAC 132B-120-080 Classroom conduct. Faculty have the authority to take appropriate action to maintain order and proper conduct in the classroom and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

A faculty member may remove a student for the single class session in which disruptive behavior occurs. The instructor will report any such exclusion from the class to the vice-president for student services or designee who may initiate further conduct proceedings as provided in this procedure.

The vice-president or designee may impose a disciplinary probation that restricts the student from the classroom until the student agrees to comply with the specific conditions outlined for classroom conduct or until an investigation is complete. The student may appeal the disciplinary sanction according to appeal procedures.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-080, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-080, filed 4/6/98, effective 5/7/98; 80-10-053 (Order 80-1, Resolution No. 10-80), § 132B-120-080, filed 8/6/80.]

WAC 132B-120-085 Groups and organizations. Recognized student groups and organizations may be charged with violations of this code. Such a group or organization and its officers may be held collectively or individually responsible when violations of this code by those associated with the group or organization have received the tacit or overt consent or encouragement of the organization, its leaders, officers or spokespersons.

Sanctions for group or organization misconduct may include revocation of the use of college facilities for a specified period of time or denial of recognition or funds as well as other appropriate sanctions permitted under this code. Sanctions of groups or organizations are subject to the appeal process upon request.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-085, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-085, filed 4/6/98, effective 5/7/98.]

WAC 132B-120-120 Disciplinary process. (1) **Judicial authority.** The vice-president for student services, designee, or in his/her absence, the vice-president for instruction of the college is responsible for initiating disciplinary proceedings for infractions of rules and regulations as outlined in the procedures. The vice-president for student services, or in his/her absence, the vice-president for instruction, may delegate this responsibility to members of their staff and they may also establish committees or other hearing bodies to advise or act for them in disciplinary matters.

(2) **Initiating the process.** Any infractions of college rules and regulations may be referred by any student or employee to the vice-president for student services, designee or in his/her absence the vice-president for instruction. Sexual harassment complaints or concerns may be directed to the vice-president for student services or human resources office.

(3) **Disciplinary process (except summary suspension).**

(a) The vice-president for student services and/or the vice-president for instruction or his/her designated representative will initiate disciplinary proceedings.

(b) Any student accused of violating any provision of the rules of conduct shall be called for an initial meeting and in order that any informality in disciplinary proceedings not mislead the student as to the seriousness of the matter under consideration, will be informed of what provision(s) of the rules of conduct he/she is charged with violating, and what appears to be the range of penalties, if any, which might result from disciplinary proceedings.

(c) After considering the evidence in a case and interviewing the student or students involved, the vice-president for student services or, in his/her absence, the vice-president for instruction or designee may take any of the following actions:

(i) Terminate the proceeding, exonerating the student or students.

(ii) Dismiss the case after providing whatever counseling and advice may be appropriate.

(iii) Impose verbal warning or reprimand not subject to student's right of appeal.

(iv) Impose additional disciplinary sanctions, subject to the student's right of appeal as described in this procedure. The student shall be notified in writing of the action taken, the reason for the decision and information about the appeals process.

(v) Refer the matter to the student conduct committee for appropriate action. The student shall be notified in writing that the matter has been referred to the committee.

(d) If the student fails to appear at the scheduled meeting without prior notification or evidence of extenuating circumstances, the vice-president may impose any sanctions authorized by this code.

(e) The written decision of the vice-president shall become final unless appealed.

(f) If a referral or an appeal is made to the student conduct committee, the committee shall hold a hearing, reach conclusions and may impose sanctions.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-120, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-120, filed 4/6/98, effective 5/7/98. Statutory Authority: RCW 28B.50.140(13) and 69.41.340. 91-11-102, § 132B-120-120, filed 5/22/91, effective 6/22/91. Statutory Authority: RCW 28B.50.140(13). 80-10-053 (Order 80-1, Resolution No. 10-80), § 132B-120-120, filed 8/6/80.]

WAC 132B-120-130 Sanctions. Sanctions for violations of college regulations or conduct may be imposed independent of any action taken by civil authorities. In the case of minors, misconduct may be referred to parents or legal guardians.

More than one sanction may be recommended. Sanctions may include, but are not limited to:

(1) Disciplinary warning. Constitutes oral notice of violation of college rules and regulations.

(2) Reprimand. Formal action after censuring a student for violation of college rules or regulations for failure to satisfy the college's expectations regarding conduct. Reprimands are made in writing to the student by the disciplinary official. A reprimand indicates to the student that continuation or repetition of the specific conduct involved or other misconduct will result in one or more serious disciplinary actions described below.

(3) Disciplinary probation. Formal action placing conditions upon the student's continued attendance. Notice will be made in writing, specifying the period of probation and the conditions of the probation. Disciplinary probation warns the student that any further misconduct will automatically raise the question of dismissal from the college. Disciplinary probation may be for a specified term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the college.

(4) Restitution. Compensation for loss, damage, or injury to the appropriate party in the form of service, money, or material replacement.

(5) Discretionary sanctions. These may include but are not limited to: Work assignments, service to college or community, class/workshop attendance or other discretionary assignments such as educational interventions intended as learning experiences.

(6) Loss of privileges. Loss of specific college privileges for a specified period of time. These may include but are not limited to student activities, athletic events, drama or music performances, or club participation.

(7) No contact. Restriction from entering specific college areas and/or all forms of contact with certain person(s).

(8) Summary suspension:

(a) Temporary dismissal from the college for a period of time during which an investigation and/or formal disciplinary procedures are pending. Summary suspension is predicated upon a reasonable belief that the student presents an imminent danger to college property, to other students, to employees of the college or is of significant disruption to the educational process.

(b) During the period of summary suspension, the student may enter the college premises only to meet with the vice-president for student services or a designee; to deliver a written appeal; to attend a hearing; or otherwise with special permission from the vice-president for student services.

(c) At the end of the summary suspension period, the student shall be reinstated to prior status subject to any other disciplinary sanctions that may have been imposed. (See WAC 132B-120-130.)

(9) Suspension. Temporary dismissal from the college and termination of student status. A student suspended on the basis of conduct, which disrupted the orderly operation of the campus or any facility of the district, may be denied access to all or any part of college facilities.

(10) Deferred suspension. Notice of suspension from the college contingent on meeting condition(s) specified. Not meeting the contingency shall immediately invoke the suspension for the period of time and under the conditions originally imposed.

(11) Expulsion. Permanent termination of student status from college.

Refund of fees for the quarter in which disciplinary action is taken shall be in accord with the college's refund policy. Fees paid in advance for subsequent quarters will be refunded.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-130, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-130, filed 4/6/98, effective 5/7/98; 80-10-053 (Order 80-1, Resolution No. 10-80), § 132B-120-130, filed 8/6/80.]

WAC 132B-120-135 Summary suspension procedures. (1) If the vice-president for student services deems summary suspension appropriate, she/he shall give the student oral or written notice of the reasons for summary suspension, duration of the summary suspension, and of any possible additional disciplinary or corrective action that may be taken. If oral notice is given, written notice shall follow within two calendar days. In addition, the vice-president for student services shall set a date for informal hearing of the summary suspension as soon as practicable.

(2) The presiding officer for the informal hearing shall be an administrator designated by the president other than the administrator who initially imposed the summary suspension (normally, the vice-president for student services) and will be accompanied by the president of the associated students of Grays Harbor College or designee. The student shall be given the opportunity to present written and/or oral evidence. The issue before the presiding officer shall be whether reasonable cause exists to support and to continue the summary suspension.

(3) The presiding officer shall issue a written decision within two days of the informal hearing.

(4) The student may request a de novo review of the informal hearing decision before the student conduct committee. Either party may request the review to be consolidated with any other disciplinary proceeding arising from the same matter.

(5) Nothing herein shall prevent faculty members from taking summary action as may be reasonably necessary to maintain order in the classroom and/or prevent substantial disruption to the educational process. Such summary action in the form of removal from the classroom may not exceed one day per episode. Any such summary action may be appealed to the vice-president for student services for an informal hearing.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-135, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-135, filed 4/6/98, effective 5/7/98.]

WAC 132B-120-170 Student conduct committee. The student conduct committee, convened for that purpose, will hear, de novo, and make recommendations on all disciplinary cases referred to it by the appropriate authority or appealed to it by student(s). The committee will be composed of the following persons:

(1) A member appointed by the president of the college who shall serve as chair;

(2) Two members of the faculty, appointed by the president of the faculty association;

(3) Two representatives from the student council, appointed by the student body president.

None of the above-named persons shall sit on any case in which he/she has a complaint or witness, in which he/she has a direct or personal interest, or in which he/she has acted previously in an advisory or official capacity. Decisions in this regard, including the selection of alternates, shall be made by the disciplinary committee as a whole.

In hearings before the committee, an assistant attorney general may be requested to assist the committee.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-170, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-170, filed 4/6/98, effective 5/7/98. Statutory Authority: RCW 28B.50.140(13) and 69.41.340. 91-11-102, § 132B-120-170, filed 5/22/91, effective 6/22/91. Statutory Authority: RCW 28B.50.140(13). 80-10-053 (Order 80-1, Resolution No. 10-80), § 132B-120-170, filed 8/6/80.]

WAC 132B-120-180 Student conduct committee procedures. The student has a right to a fair and impartial hearing before the committee on any charge of misconduct resulting in disciplinary action other than warning or reprimand.

The committee chair shall establish general rules of procedures for conducting hearings. All proceedings of the committee will be conducted with reasonable dispatch and terminated as soon as fairness to all parties involved permits.

(1) The committee shall issue written notice of the date, time and place of the hearing, and the charges against the student consistent with RCW 34.05.434. This notice of hearing shall be provided no later than seven days prior to the date of the hearing. The notice may be amended at any time prior to the hearing, but if such amendment is prejudicial to the student's case, the hearing shall be rescheduled to a later date if so requested in writing by the student.

(2) The student may be represented by counsel and/or accompanied by an advisor of his/her choice, who is not, however, an employee of the college. If the student elects to choose and pay a duly licensed attorney admitted to practice in the state of Washington as counsel, notice thereof must be tendered by the student to the vice-president for student services at least five calendar days prior to the hearing.

(3) The student or his/her representative shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its sources; the student shall be entitled to present evidence in his/her own behalf and to question witnesses testifying against him/her as to factual matters. The committee shall request the administration to provide the student a list of witnesses who will appear, and a description of any documentary or other physical evidence that will be presented at the hearing. The student shall have all authority which is possessed by the college to obtain information or to request the presence of witnesses or the production of other evidence relevant to the issues at the hearing.

(4) Only those matters presented at the hearing, in the presence of the student involved, will be considered in determining whether the student is guilty of the misconduct charged but the student's past record of conduct may be taken into account in formulating the committee's recommendation.

(5) Hearings conducted by the committee will be held in closed session, the only exception being when the student involved invites particular persons or requests an open hearing. If at any time during the conduct of the hearing, invited guests are disruptive of the proceedings, the chair of the committee may exclude such persons from the hearing room.

(6) The vice-president of student services or designee shall make the first presentation and present witnesses. The student may then make a presentation and present witnesses. Either side may offer a rebuttal.

(7) The chairperson may receive sworn written statements in lieu of oral testimony at the hearing. The chairperson shall admit matters into evidence that reasonable persons would accept as having value in the conduct of their affairs. Unduly repetitive or irrelevant evidence may be excluded.

(8) Failure on the part of the student(s) to appear or cooperate in the proceedings may result in default in accordance with RCW 34.05.440. However, it may not preclude the committee from making its findings of fact, reaching conclusions and imposing sanctions. Failure of the student to cooperate may be taken into consideration by the committee in recommending penalties.

(9) The committee may decide to uphold or modify sanctions in accordance with WAC 132B-120-130.

(10) An adequate summary of the proceedings will be kept. At a minimum, such summary would include a tape recording of testimony. During the hearing, such record will be available to the student conduct committee, the student and student's attorney and any other college official designated by the chairperson for inspection and copying in the office of the chairperson during regular business hours. Following the conclusion of the conduct proceeding, access to records of the case and hearing file will be kept in the office of the vice-president for student services and limited to those designated by the college president.

(11) The student will be provided with a copy of the findings of fact and with the conclusions of the committee.

(12) Appeal of the committee's decision. The student will also be advised of his/her right to present within seven calendar days, a written statement of appeal to the president of the college before action is taken on the decision of the committee. In the case of a student under eighteen years of age, written notice of any action involving dismissal or disciplinary probation may be sent to the parents or guardian of the student.

(13) If the student concludes that the action of the disciplinary committee is inappropriate, the student may appeal the matter to the president of the college. The president of the college or his/her designated representative, after reviewing the case, including the report of the committee and any statements filed by the student, shall either indicate his/her approval of the conclusions of the committee by sustaining its decision, shall give directions as to what other disciplinary action shall be taken by modifying its decision or shall nullify previous sanctions imposed by reversing its decision. The president shall then notify the official who initiated the proceedings, the student and the committee chair. The decision of the president is final.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-180, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-180, filed 4/6/98, effective 5/7/98. Statutory Authority: RCW 28B.50.140(13) and 69.41.340. 91-11-102, § 132B-120-180, filed 5/22/91, effective 6/22/91. Statutory Authority: RCW 28B.50.140(13). 80-10-053 (Order 80-1, Resolution No. 10-80), § 132B-120-180, filed 8/6/80.]

WAC 132B-120-190 Appeals. Any disciplinary action other than warning or reprimand may be appealed. All appeals must be made in writing and addressed to the vice-president for student services within seven calendar days of the college's giving notice of the disciplinary action.

Disciplinary action by any college employee may be appealed to, and shall be reviewed by, the vice-president for student services, or in his/her absence, the vice-president for instruction or designee.

Disciplinary action may be appealed to, and shall be reviewed by, the student conduct committee.

Disciplinary action by the student conduct committee may be appealed to and shall be reviewed by the college president or his/her designee.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-190, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-190, filed 4/6/98, effective 5/7/98. Statutory Authority: RCW 28B.50.140(13) and 69.41.340. 91-11-102, § 132B-120-190, filed 5/22/91, effective 6/22/91. Statutory Authority: RCW 28B.50.140(13). 80-10-053 (Order 80-1, Resolution No. 10-80), § 132B-120-190, filed 8/6/80.]

WAC 132B-120-200 Reporting, recording and maintaining records. The office of the vice-president for student services shall keep records of all disciplinary cases. Except in proceedings where the student is exonerated, all documentary or other physical evidence produced or considered in disciplinary proceedings and all recorded testimony shall be preserved; insofar as possible, for not more than six years. No other records of proceedings wherein the student is exonerated, other than the fact of exoneration, shall be maintained in the student's file or other college repository after the date of the student's graduation or not more than six years.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-200, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-200, filed 4/6/98, effective 5/7/98; 80-10-053 (Order 80-1, Resolution No. 10-80), § 132B-120-200, filed 8/6/80.]

WAC 132B-120-220 Student grievance procedure. The purpose of these procedures is to provide guidelines which enable a student to express and resolve misunderstandings, complaints, or grievances in a fair and equitable manner. Students have the right to receive clear information and fair application of college policies, standards, rules and requirements and are responsible for complying with them in their relationships with college personnel. This grievance procedure emphasizes an informal resolution which promotes constructive dialogue and understanding.

(1) Student complaints. A complaint is any expression of dissatisfaction with the performance of a college employee, policy or procedure. Students who have a complaint shall use the following procedure:

Step 1. If the complaint is about the action of a college employee, the college employee and student shall make a good faith effort to resolve the grievance on a one-to-one basis. If the complaint is about a policy or procedure, it should be discussed with the employee most closely responsible for the policy or procedure. Both parties should openly discuss the concern, attempt to understand the other's perspective, explore alternatives and attempt to arrive at a satisfactory resolution.

Step 2. If the student determines that the complaint cannot be resolved to his/her satisfaction with the employee concerned, he/she should contact one of the following people:

(a) The vice-president for instruction for complaints regarding an instructional employee, policy or procedure; or

(b) The vice-president for student services regarding any other employee, policy or procedure.

The student may be referred to other appropriate personnel for resolution.

Step 3. The vice-president will discuss with the student his/her concerns including options available to resolve the concern. The student may be requested to indicate in writing the nature of the grievance specifying as accurately as possible all details. Following discussion and the gathering of any further information, the vice-president, within twenty working days, will issue a decision to resolve the complaint and report his/her findings to all involved parties. If an investigation requires more time, the deadline may be extended to a mutually agreed future date.

Step 4. If the meeting with the vice-president does not resolve the complaint to the student's satisfaction, he/she may appeal to the president of the college. The president may amend, modify, reverse or accept the recommendation of the vice-president. The decision of the president shall be final.

(2) Records. The vice-president shall keep all written statements or transcripts associated with the complaint as part of the files. The files will be destroyed after six years from the initiation of the complaint.

(3) Time limits on filing a complaint. The student must file a complaint within one academic quarter of the event which caused the grievance to be filed. The vice-president may suspend this rule under exceptional circumstances such as extended illness, or leave of a party to the complaint. No complaints will be considered after two academic quarters of the occurrence of the source of the grievance. When either party to the complaint is no longer present at the college and does not expect to return, the vice-president will give the absent party reasonable opportunity to reply to the complaint before making a decision.

(4) Grievances excluded. The student grievance procedure described in this section is not intended to cover complaints of discrimination or sexual harassment. The college has separate, specific procedures for such complaints. See the vice-president for student services for information on those specific procedures.

A student may not use the provisions of these sections as the basis for filing a grievance based on the outcome of summary or other disciplinary proceedings described in earlier sections of this student rights and responsibilities code or for resolution of specific categories of student complaints where other procedures are required.

Federal and state laws, rules and regulations, in addition to policies, regulations and procedures adopted by the state board for community college education or the board of trustees of Community College District No. 2 shall not be grievable matters.

[Statutory Authority: RCW 28B.50.140. 04-01-100, § 132B-120-220, filed 12/16/03, effective 1/16/04. Statutory Authority: RCW 28B.50.140(13). 98-09-012, § 132B-120-220, filed 4/6/98, effective 5/7/98.]

Title 132F WAC

COMMUNITY COLLEGES—SEATTLE COMMUNITY COLLEGES

Chapters

132F-01	**Appointing authority.**
132F-104	**Seattle Community College District board of trustees—Rules and regulations.**
132F-108	**Procedures for adjudicative proceedings.**
132F-120	**Seattle Community College student policies and procedures.**
132F-121	**Student activities, rights and discipline.**

Chapter 132F-01 WAC

APPOINTING AUTHORITY

WAC

132F-01-010	Appointing authority.
132F-01-020	Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132F-01-020	Written contracts. [Statutory Authority: Chapter 28B.50 RCW. 83-13-058 (Order 41, Resolution No. 1983-16), § 132F-01-020, filed 6/15/83.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140.

WAC 132F-01-010 Appointing authority. (1) The board of trustees of Community College District VI is the appointing authority for employees of the district, pursuant to RCW 28B.50.140. RCW 28B.10.528 provides that the board may delegate any of its powers and duties to the district president or his designee, and RCW 28B.50.140(14) provides that the board may delegate any of its powers and duties to the district president. In District VI, the district president also carries the title of "chancellor."

(2) The board of trustees of Community College District VI delegates to the district president (or any acting district president or interim district president) the appointing authority for the campus presidents and the district office personnel.

(3) The president of Community College District VI designates, and the board of trustees delegates to the campus presidents (or any acting campus president or interim campus president) the appointing authority for their respective campuses.

(4) The chancellor or a campus president may designate another person to act as the respective appointing authority in his or her absence.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-01-010, filed 7/28/03, effective 8/28/03. Statutory Authority: Chapter 28B.50 RCW. 83-13-058 (Order 41, Resolution No. 1983-16), § 132F-01-010, filed 6/15/83.]

WAC 132F-01-020 Repealed. See Disposition Table at beginning of this chapter.

Chapter 132F-104 WAC

SEATTLE COMMUNITY COLLEGE DISTRICT BOARD OF TRUSTEES—RULES AND REGULATIONS

WAC

132F-104-010 Regular meetings of the Community College District VI board of trustees.
132F-104-020 Special meetings.
132F-104-030 Repealed.
132F-104-801 Repealed.
132F-104-810 Submission of items for board consideration.
132F-104-811 Repealed.
132F-104-812 Repealed.
132F-104-813 Repealed.
132F-104-814 Repealed.
132F-104-815 Repealed.
132F-104-816 Repealed.
132F-104-817 Repealed.
132F-104-818 Repealed.
132F-104-819 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132F-104-030 Location of meeting. [Statutory Authority: RCW 28B.50.140. 94-18-070, § 132F-104-030, filed 9/1/94, effective 10/2/94. Statutory Authority: Chapter 28B.50 RCW. 85-21-016 (Order 48, Resolution No. 1985-20), § 132F-104-030, filed 10/7/85; 83-13-058 (Order 41, Resolution No. 1983-16), § 132F-104-030, filed 6/15/83. Statutory Authority: RCW 28B.50.140. 81-14-073 (Order 40), § 132F-104-030, filed 7/1/81; Order 20, § 132F-104-030, filed 6/6/75.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140.

132F-104-801 Board operational policies relative to meetings. [Order 14, § 132F-104-801, filed 5/22/73.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140.

132F-104-811 Review of agenda items. [Statutory Authority: RCW 28B.50.140. 94-18-070, § 132F-104-811, filed 9/1/94, effective 10/2/94. Statutory Authority: Chapter 28B.50 RCW. 83-13-058 (Order 41, Resolution No. 1983-16), § 132F-104-811, filed 6/15/83. Statutory Authority: RCW 28B.50.140. 81-14-073 (Order 40), § 132F-104-811, filed 7/1/81; Order 14, § 132F-104-811, filed 5/22/73.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140.

132F-104-812 Deadlines. [Statutory Authority: Chapter 28B.50 RCW. 85-21-016 (Order 48, Resolution No. 1985-20), § 132F-104-812, filed 10/7/85; 83-13-058 (Order 41, Resolution No. 1983-16), § 132F-104-812, filed 6/15/83. Statutory Authority: RCW 28B.50.140. 81-14-073 (Order 40), § 132F-104-812, filed 7/1/81; Order 14, § 132F-104-812, filed 5/22/73.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140.

132F-104-813 Submission routes. [Statutory Authority: RCW 28B.50.140. 94-18-070, § 132F-104-813, filed 9/1/94, effective 10/2/94. Statutory Authority: Chapter 28B.50 RCW. 85-21-016 (Order 48, Resolution No. 1985-20), § 132F-104-813, filed 10/7/85; 83-13-058 (Order 41, Resolution No. 1983-16), § 132F-104-813, filed 6/15/83. Statutory Authority: RCW 28B.50.140. 81-14-073 (Order 40), § 132F-104-813, filed 7/1/81; Order 14, § 132F-104-813, filed 5/22/73.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140.

132F-104-814 Informational materials. [Statutory Authority: Chapter 28B.50 RCW. 83-13-058 (Order 41, Resolution No. 1983-16), § 132F-104-814, filed 6/15/83. Statutory Authority: RCW 28B.50.140. 81-14-073 (Order 40), § 132F-104-814, filed 7/1/81; Order 14, § 132F-104-814, filed 5/22/73.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140.

132F-104-815 Board distribution list. [Statutory Authority: RCW 28B.50.140. 94-18-070, § 132F-104-815, filed 9/1/94, effective 10/2/94. Statutory Authority: Chapter 28B.50 RCW. 85-21-016 (Order 48, Resolution No. 1985-20), § 132F-104-815, filed 10/7/85; 83-13-058 (Order 41, Resolution No. 1983-16), § 132F-104-815, filed 6/15/83. Statutory Authority: RCW 28B.50.140. 81-14-073 (Order 40), § 132F-104-815, filed 7/1/81; Order 14, § 132F-104-815, filed 5/22/73.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140.

132F-104-816 Advance mailings for special meetings. [Order 14, § 132F-104-816, filed 5/22/73.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140.

132F-104-817 Old business. [Statutory Authority: Chapter 28B.50 RCW. 83-13-058 (Order 41, Resolution No. 1983-16), § 132F-104-817, filed 6/15/83; Order 14, § 132F-104-817, filed 5/22/73.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140.

132F-104-818 New business. [Statutory Authority: Chapter 28B.50 RCW. 85-21-016 (Order 48, Resolution No. 1985-20), § 132F-104-818, filed 10/7/85. Statutory Authority: RCW 28B.50.140. 81-14-073 (Order 40), § 132F-104-818, filed 7/1/81; Order 14, § 132F-104-818, filed 5/22/73.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140.

132F-104-819 Notification to board office. [Statutory Authority: RCW 28B.50.140. 94-18-070, § 132F-104-819, filed 9/1/94, effective 10/2/94. Statutory Authority: Chapter 28B.50 RCW. 85-21-016 (Order 48, Resolution No. 1985-20), § 132F-104-819, filed 10/7/85; 83-13-058 (Order 41, Resolution No. 1983-16), § 132F-104-819, filed 6/15/83. Statutory Authority: RCW 28B.50.140. 81-14-073 (Order 40), § 132F-104-819, filed 7/1/81; Order 14, § 132F-104-819, filed 5/22/73.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140.

WAC 132F-104-010 Regular meetings of the Community College District VI board of trustees. The board of trustees will hold regular meetings in accordance with the Open Public Meetings Act, chapter 42.30 RCW, and other applicable law. These meetings will be held during eleven months of the year (except August) on the second Thursday, unless that day is a legal holiday, in which case the meeting will be on the next business day, or unless the date is otherwise modified by board action. The dates, times, and places for such regular meetings shall be specified by motions, resolutions, or other appropriate actions of the board, or otherwise in accordance with applicable law.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-104-010, filed 7/28/03, effective 8/28/03. Statutory Authority: Chapter 28B.50 RCW. 87-19-122 (Order 50, Resolution No. 1987-24), § 132F-104-010, filed 9/21/87; 85-21-016 (Order 48, Resolution No. 1985-20), § 132F-104-010, filed 10/7/85; Order 27, § 132F-104-010, filed 10/10/75; Order 20, § 132F-104-010, filed 6/6/75; Order 6, § 132F-104-010, filed 12/12/72.]

WAC 132F-104-020 Special meetings. The board of trustees may also hold special meetings in accordance with chapter 42.30 RCW and other applicable law.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-104-020, filed 7/28/03, effective 8/28/03. Statutory Authority: Chapter 28B.50 RCW. 85-21-016 (Order 48, Resolution No. 1985-20), § 132F-104-020, filed 10/7/85; Order 30, § 132F-104-020, filed 6/11/76; Order 27, § 132F-104-020, filed 10/10/75; Order 20, § 132F-104-020, filed 6/6/75.]

WAC 132F-104-030 Repealed. See Disposition Table at beginning of this chapter.

WAC 132F-104-801 Repealed. See Disposition Table at beginning of this chapter.

WAC 132F-104-810 Submission of items for board consideration. Any individual, group of individuals, or organization may submit any item of concern to the board, in writing and/or verbally, in accordance with applicable policies and procedures and such restrictions as the board or its secretary may impose in the interests of fairness and efficient board operations. Any such written item, and notice of any intent to submit an item verbally, should be provided to the district chancellor or other board secretary at least ten days before the next regular board meeting.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-104-810, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.140. 81-14-073 (Order 40), § 132F-104-810, filed 7/1/81; Order 14, § 132F-104-810, filed 5/22/73.]

WAC 132F-104-811 Repealed. See Disposition Table at beginning of this chapter.

WAC 132F-104-812 Repealed. See Disposition Table at beginning of this chapter.

WAC 132F-104-813 Repealed. See Disposition Table at beginning of this chapter.

WAC 132F-104-814 Repealed. See Disposition Table at beginning of this chapter.

WAC 132F-104-815 Repealed. See Disposition Table at beginning of this chapter.

WAC 132F-104-816 Repealed. See Disposition Table at beginning of this chapter.

WAC 132F-104-817 Repealed. See Disposition Table at beginning of this chapter.

WAC 132F-104-818 Repealed. See Disposition Table at beginning of this chapter.

WAC 132F-104-819 Repealed. See Disposition Table at beginning of this chapter.

Chapter 132F-108 WAC

PROCEDURES FOR ADJUDICATIVE PROCEEDINGS

WAC

132F-108-020 Appointment of presiding officers.
132F-108-050 Brief adjudicative procedures.
132F-108-070 Adjudicative proceedings open.
132F-108-080 Procedure for closing parts of the hearings.
132F-108-100 Petitions for stay of effectiveness.
132F-108-120 Absence of president.
132F-108-130 Appearance and practice before agency.
132F-108-140 Definition of issues before hearing.

WAC 132F-108-020 Appointment of presiding officers. The district president/chancellor or president of one of the district's institutions, or a designee of either, shall designate a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, member in good standing of the Washington State Bar Association, a panel of individuals, the district president/chancellor or his or her designee, or any combination of the above. When more than one individual is designated to be the presiding officer, one such person shall be designated to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters. These designations may also be made by separate rule.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-108-020, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.140. 94-18-070, § 132F-108-020, filed 9/1/94, effective 10/2/94.]

WAC 132F-108-050 Brief adjudicative procedures. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used, unless provided otherwise by another rule or determined otherwise in a particular case by the district chancellor, the affected campus president, or a designee of either, in regard to:

(1) Parking violations.

(2) Outstanding debts owed by students or employees.

(3) Use of college facilities.

(4) Residency determinations.

(5) Use of library—fines.

(6) Challenges to contents of education records.

(7) Loss of eligibility for participation in institution sponsored athletic events.

Brief adjudicative proceedings are informal hearings and shall be conducted in a manner which will bring about a prompt fair resolution of the matter.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-108-050, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.140. 94-18-070, § 132F-108-050, filed 9/1/94, effective 10/2/94.]

WAC 132F-108-070 Adjudicative proceedings open. Adjudicative proceedings shall be open to the public, except as may be provided otherwise by law or legal requirement.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-108-070, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.140. 94-18-070, § 132F-108-070, filed 9/1/94, effective 10/2/94.]

WAC 132F-108-080 Procedure for closing parts of the hearings. A party may apply for a protective order to close part of a hearing. The party making the request should state the justification for the application to the presiding officer. If the other party opposes the request, that party may provide a written response to the presiding officer within 10 days of the request. The presiding officer shall determine which, if any, parts of the proceeding shall be closed, and state the reasons therefore, in writing, within 20 days of receiving the request.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-108-080, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.140. 94-18-070, § 132F-108-080, filed 9/1/94, effective 10/2/94.]

WAC 132F-108-100 Petitions for stay of effectiveness. Disposition of a petition for stay of effectiveness of a final order shall be made by the official, officer, or body of officers who entered the final order.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-108-100, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.140. 94-18-070, § 132F-108-100, filed 9/1/94, effective 10/2/94.]

WAC 132F-108-120 Absence of president. The district president/chancellor or president of one of the district's institutions may designate another employee of the college to act in his/her place on a temporary basis during his/her absence. An employee appointed under this provision shall only have the authority to act upon matters which require a decision by the president within the limited period of time when the president, due to his/her absence, is unable to decide such matter.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-108-120, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.140. 94-18-070, § 132F-108-120, filed 9/1/94, effective 10/2/94.]

WAC 132F-108-130 Appearance and practice before agency. No person may appear in a representative capacity before the agency other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

(3) Persons otherwise qualified as possessing the requisite skill to appear and expertly represent others who have applied to the agency and have been duly authorized by the agency to appear in a representative capacity before the agency.

(4) A bona fide officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership or corporation.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-108-130, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.140. 94-18-070, § 132F-108-130, filed 9/1/94, effective 10/2/94. Formerly WAC 132F-08-010.]

WAC 132F-108-140 Definition of issues before hearing. In all proceedings the issues to be adjudicated shall be identified initially as precisely as possible, in order that the agency may proceed promptly to conduct the hearings on relevant and material matters only.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-108-140, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.140. 94-18-070, § 132F-108-140, filed 9/1/94, effective 10/2/94. Formerly WAC 132F-08-440.]

Chapter 132F-120 WAC

SEATTLE COMMUNITY COLLEGE STUDENT POLICIES AND PROCEDURES

WAC

132F-120-020 through 132F-120-210 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132F-120-020 Students' right to privacy. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-020, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-020, filed 10/4/78; Order 2, § 132F-120-020, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-030 Student programs. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-030, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-030, filed 10/4/78; Order 2, § 132F-120-030, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-040 Student program development. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-040, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-040, filed 10/4/78; Order 2, § 132F-120-040, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-041 Definition. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-041, filed 1/12/84. Formerly WAC 132F-120-510.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-042 Operation of student programs. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-042, filed 1/12/84.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-043 Program expenditures. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-043, filed 1/12/84.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-050 Student organizations. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-050, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-050, filed 10/4/78; Order 2, § 132F-120-050, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-060 Student publications associated with a journalism course. [Statutory Authority: Chapter 28B.50 RCW. 84-23-061 (Order 45, Resolution No. 1984-27), § 132F-120-060, filed 11/21/84; 84-14-004 (Order 43, Resolution No. 1984-5), § 132F-120-060, filed 6/22/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-060, filed 10/4/78; Order 2, § 132F-120-060, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-061 Student publications not associated with a course of journalism for which academic credit is provided. [Statutory Authority: Chapter 28B.50 RCW. 84-14-004 (Order 43, Resolution No. 1984-5), § 132F-120-061, filed 6/22/84.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-070 Use of the college name. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-070, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-070, filed 10/4/78; Order 2, § 132F-120-070, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-080 Student expression and evaluation. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-080, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-080, filed 10/4/78; Order 2, § 132F-120-080, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-090 Student complaints. [Statutory Authority: Chapter 28B.19 RCW. 89-14-025 (Order 52, Resolution No. 1989-6), § 132F-120-090, filed 6/26/89; 88-08-069 (Order 51, Resolution No. 1988-3), § 132F-120-090, filed 4/6/88. Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-090, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-090, filed 10/4/78; Order 2, § 132F-120-090, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-100 Student conduct. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-100, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-100, filed 10/4/78; Order 2, § 132F-120-100, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-110 Misconduct. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-110, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-110, filed 10/4/78; Order 2, § 132F-120-110, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-120 Disciplinary actions. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-120, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-120, filed 10/4/78; Order 2, § 132F-120-120, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-130 Jurisdiction. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-130, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-130, filed 10/4/78; Order 32, § 132F-120-130, filed 1/28/77; Order 2, § 132F-120-130, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-140 Disciplinary authority of deans of students. [Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-140, filed 10/4/78; Order 2, § 132F-120-140, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-150 Appeals/referrals. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-150, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-150, filed 10/4/78; Order 2, § 132F-120-150, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-160 Campus committee on conduct and standards. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-160, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-160, filed 10/4/78; Order 2, § 132F-120-160, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-170 Hearing guidelines. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-170, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-170, filed 10/4/78.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-180 Sanctions. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-180, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-180, filed 10/4/78.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-190 Review for readmission. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-190, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-190, filed 10/4/78.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-200 Emergency authority of the campus president. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-200, filed 1/12/84. Statutory Authority: RCW 28B.50.140(13). 78-10-109 (Order 37), § 132F-120-200, filed 10/4/78; Order 25, § 132F-120-200, filed 9/16/75; Order 2, § 132F-120-200, filed 9/20/72.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

132F-120-210 Intercollegiate athletic programs. [Statutory Authority: Chapter 28B.50 RCW. 84-03-028 (Order 42, Resolution No. 1984-1), § 132F-120-210, filed 1/12/84.] Repealed by 03-16-015, filed 7/28/03, effective 8/28/03. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. Later promulgation, see chapter 132F-121 WAC.

WAC 132F-120-020 through 132F-120-210 Repealed. See Disposition Table at beginning of this chapter.

Chapter 132F-121 WAC
STUDENT ACTIVITIES, RIGHTS AND DISCIPLINE

(Formerly chapter 132F-120 WAC)

WAC

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WAC 132F-121-010 Definitions and general provisions. For purposes of this chapter:

(1) The terms "college" and "campus" are used interchangeably, and each refers to any of the district's three colleges, North Seattle Community College, Seattle Central Community College, and South Seattle Community College. The Seattle Vocational Institute is considered to be part of Seattle Central Community College.

(2) "Day" means calendar day, unless specified otherwise, and deadlines shall be computed in accordance with WAC 10-08-080.

(3) "District" means the sixth state college district, the district administrative offices (Siegal Center), North Seattle Community College, Seattle Central Community College, South Seattle Community College, the Seattle Vocational Institute, and/or every other District VI educational facility, each separately and all together.

(4) "District community" includes, but is not limited to, the district itself and all enrolled students, employees, officers, and invitees of the district.

(5) "District property" includes all real property, buildings, and other facilities that are owned, leased, or controlled by the district or by the state for district purposes.

(6) "Vice-president for student services" means the person whom a college president has appointed to that position or has otherwise designated to perform the functions ascribed to that position in this chapter.

(7) An action or activity that may be authorized or taken by the district chancellor, a vice chancellor, a campus president, or a campus vice-president may also be authorized or taken by any other person whom that officer has specifically designated to perform that function on his/her behalf, but this officer retains responsibility for the function.

(8) After the adoption of these rules, if a statute or rule to which they refer is renumbered or otherwise amended, these rules shall be interpreted to the fullest extent possible to incorporate such amendment while still giving effect to their original purposes.

(9) Service of any document, notice, or copy under this chapter shall be made (a) by personal delivery, (b) by mailing to the recipient's last known address, which service shall be regarded as complete upon deposit in the U.S. mail properly stamped and addressed, or (c) as otherwise authorized by law or rule.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-010, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-020 Student rights, freedoms, and responsibilities. (1) Preamble. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the district community.

(2) Classroom freedom of expression. The district recognizes the rights of students to freedom of discussion and free expression of views. However, students' rights of classroom expression do not include expressions or conduct which create a hostile educational environment or violate chapter 49.60 RCW or other applicable law. It is the responsibility of the instructor to insure and encourage the realization not only of the fact but of the spirit of free inquiry. Instructors have the responsibility to maintain order, but this authority shall not be used to inhibit the expression of views contrary to their own. Students have the right to take reasoned exception to the data or views offered in any course of study and to reserve judgment about matters of opinion, but they cannot do so in a disruptive manner that interferes with the educational process. Students are responsible for learning the content of any course of study for which they are enrolled. It also is the responsibility of the student to comply with the instructor's efforts to assure freedom of expression and to maintain order.

(3) Protection against improper evaluation. Instructors shall give their students fair and consistent evaluations of the students' course performance. Toward this end, instructors are also responsible for establishing appropriate standards of academic performance for each course. Fair and consistent grading is a legitimate classroom experience.

(4) Protection against improper disclosure. Information about student views, beliefs, and political associations which is acquired by instructors in the course of their work as faculty or advisors, under circumstances which clearly indicate that it is intended to be confidential, shall be treated as confidential and shall not be disclosed to others, unless it relates to the apparent or intended commission of a crime or disclosure is required by law. Protection against improper disclosure of student education record information is a serious professional obligation incurred by the teaching profession and district administrators. However, evaluations of student ability and

character may be provided to third parties with the student's consent or in accordance with applicable law.

(5) Nonacademic expression and inquiry. Students and student organizations are free to examine and to discuss all questions of interest to them and to express opinions publicly and privately, in accordance with law. They are free to support causes by orderly and lawful means which do not disrupt the operation of the institution and which comply with the district's policies regarding these activities.

(6) The district shall respect students' right to privacy. It will not inquire into the off-campus activities of its students without legal justification.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-020, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-030 Student organizations. (1) Student organizations may be established and recognized whether their aims are educational, cultural, recreational, social, athletic, religious, political, or economic. Affiliation with an external organization shall not in and of itself disqualify a campus-based student organization from recognition. Membership in a student organization shall be open to any student who subscribes to the stated aims of the organization. To operate as such, a student organization must be recognized by the approved student government organization. The student organization shall abide by all governing federal and state laws and district and campus rules, policies and procedures.

(2) A college may require, as a condition of access to campus funds and/or facilities, demonstration or proof of the student enrollments of a student organization's members. However, any list of members compiled for such purposes shall not be publicly disclosed except in accordance with applicable law. A college may, in its discretion, permit others, such as students' spouses, to participate in a student organization's activities under appropriate conditions.

(3) Each year, before a student organization may be recognized or function as such, or may use services and activities funds, a college employee must agree to serve as its advisor and his/her name must be provided to and approved by the vice-president for student services. No campus employee may serve as the advisor for more than two student organizations at the same time.

(4) Where funds are allocated to a student organization, financial accountability is required. Student organizations' funds shall be maintained at the college, in college accounts. The organizations shall keep detailed written records of their income and expenditures and shall assure that these can be reconciled with the campus budget and accounting system. Student organizations' financial records must be made available upon request to the student government organization and to any administrative officer designated by the college president.

(5) A college president may withdraw a student organization's recognition and funding for good cause. Such cause shall include, but not be limited to, (a) failure to comply with this rule or other district requirements or (b) hazing.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-030, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-040 Journalistic freedom and responsibility. (1) A primary purpose of student publications is to promote free and responsible discussion of campus and community issues.

(2) Each campus president shall establish a board of publications composed of representatives of students, faculty, and staff. This board shall serve as the publisher of all student publications and shall have general authority over them.

(3) The board of publications may adopt, subject to modification by the campus president, such journalistic, editorial, and advertising guidelines as it deems appropriate to govern student publications. Unless specifically stated by the board and approved by the campus president otherwise, these guidelines shall be deemed to include all applicable federal and state laws, all district rules, policies and procedures, and relevant codes of journalistic, editorial and advertising ethics and practices as adopted by national trade and professional organizations, including but not limited to the *Statement of Principles* as adopted by the American Society of Newspaper Editors.

(4) Student newspapers shall be free of censorship. However, student newspapers and other student publications shall follow the board's guidelines as described above. Student editors shall be free to develop their own editorial policies within these guidelines.

(5) Staff members of student newspapers shall not be subject to arbitrary discipline or dismissal because of student, faculty, administrative or community disapproval of editorial policy or content.

(6) Good cause for discipline or dismissal of a student publication staff member shall include, but not be limited to, violation of the board's guidelines. Any discipline or dismissal of a student staff member shall be subject to review under the student complaint procedure.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-040, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-050 Student use of the district/college name. (1) No individual student, student group, or student organization may act or make any representation in the name of the district or of any campus without specific authorization from the vice-president for student services.

(2) No individual student, student group or student organization shall falsely indicate or represent that his, her, or its own position on any policy or issue is that of the district or of any campus.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-050, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-060 Student complaints generally. (1) The procedures in this chapter are to be used for the processing and disposition of complaints by students (complainants) against college employees or other students, except to the extent that a complaint is against a college employee and the processing is dictated otherwise by a collective bargaining agreement or other applicable process. These procedures are available to all students and are intended to protect the rights of both the complainant and the respondent.

(2) For the purposes of this chapter, a "complaint" is a good faith claim, based on personal knowledge, that the respondent employee or student (a) has violated a specific

legal or district requirement or has otherwise acted without reasonable care (b) on district property or during an event or activity that the district conducts, participates in, or sponsors, (c) in a manner that had or has a significant detrimental effect on the complainant. However, an objection to disciplinary action under the student conduct code is only appealable under that code, and cannot constitute a complaint.

(3) Each college president shall appoint a complaints officer to handle student complaints. This position shall be filled by an employee whose position is below the level of vice-president. The district chancellor shall designate a complaints officer to handle complaints against Siegal Center employees. If the president or chancellor determines, upon request, that the complaints officer has a disqualifying personal interest in a particular matter, s/he may appoint a substitute complaints officer for that matter.

(4) The complaints officer shall be responsible for taking appropriate actions to try to resolve complaints. Information on the identity and location of the complaints officer(s) and about this procedure shall be readily available within each college.

(5) A complaint may be initiated under either the informal process or the formal process, as set forth below.

(6) No respondent or district employee shall take adverse action or otherwise retaliate against a student because that student initiated a complaint or assisted another student with a complaint.

(7) If more than one type of complaint or more than one respondent is included in one complaint, the complaints officer may, upon request, provide for appropriate modification(s) of these procedures.

(8) If a respondent employee is unavailable, or otherwise fails or refuses to participate timely in a complaint proceeding, the respondent's supervisor may, upon request and in her/his discretion, act or designate another person to act in the complaint proceeding on that employee's behalf. However, no action by a substitute may subject the respondent employee to discipline.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-060, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-070 Informal processing of complaints. (1) This informal process is intended to facilitate prompt and amicable resolution of a complaint apart from the formal complaint process.

(2) A student who has a complaint is encouraged to discuss the matter directly with the respondent to attempt to resolve it.

(3) If the complainant believes that discussion with an employee respondent will not achieve or has not achieved a satisfactory result, the complainant may communicate about the matter with the respondent's supervisor, if any. If the complainant identifies the matter as a complaint under this procedure, the supervisor shall, within the earlier of five days following that communication or any deadline established in an applicable collective bargaining agreement, appropriately notify the respondent of the complaint. The supervisor also shall, within the earlier of fifteen days following that communication or any deadline established in an applicable agreement, meet or attempt to meet with the respondent and otherwise attempt to resolve the complaint.

(4) Any participant in the informal process may request the complaint officer's assistance in obtaining a resolution.

(5) This informal process shall be deemed to be terminated if the complainant files a timely formal complaint related to the same matter.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-070, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-080 Formal processing of complaints. (1) This formal process applies to student complaints that are made to the complaints officer in writing. The complaints officer may extend any deadline herein for good cause.

(2) To be considered under this formal process, a complaint must be filed with the complaints officer in writing within ninety days of when the complainant knew or reasonably should have known that he/she had cause for a complaint, except as otherwise provided in WAC 132F-121-090 for a grade complaint. The written complaint shall be designated as a complaint under these rules and shall fully specify the facts and other grounds on which it is based. The complainant should attach copies of relevant supporting documents when feasible.

(3) Upon receipt of the complaint, the complaints officer shall determine whether it qualifies as such. If the officer determines that it does not qualify as a complaint, she/he shall serve notice to that effect on the complainant within five days. The complainant may obtain review of that notice of complaint disqualification by filing a written request with the complaints officer under subsection (7) below.

(4) If the complaints officer determines that the complaint does qualify as such, that officer shall serve copies of the complaint and any supporting documentation on the respondent and the respondent's supervisor (if any) within five days. After service of such a copy of the complaint, the respondent shall serve a written response on the complaints officer, and a copy thereof on the respondent's supervisor (if any), within fifteen days.

(5) Within five days of service of that response, or, absent a response, within five days of when one was due, the complaints officer shall serve on the complainant either the response or a statement that none has been received, together with notice of the complainant's rights under the following subsection.

(6) Within five days of this service, if the complainant finds that the response or nonresponse is unsatisfactory she/he may serve written notice of such dissatisfaction on the complaints officer. Within five days of service of such notice, the complaints officer shall schedule a conference and invite the complainant, the respondent, and the respondent's supervisor (if any). This conference shall be held within fifteen days of service of the complainant's notice, or as soon thereafter as feasible. During this conference the complaints officer shall try to facilitate resolution. The complaints officer shall produce a written statement summarizing this conference and serve copies on each of the invited attendees within ten days after the conference.

(7) Within five days after service of either a notice of complaint disqualification or a conference summary, the complainant may obtain review thereof by filing a written request for such review with the complaints officer. Within

five days of receiving this request for review, the complaints officer shall forward it, together with the complaint and other relevant documents, either to the vice-president of instruction (if the officer determines that the complaint is predominantly an instructional matter) or to the vice-president for student services (if the officer determines that the complaint is predominantly noninstructional in nature). If the respondent is a Siegal Center employee, the complaints officer shall forward the matter to a vice chancellor.

(8) This reviewing administrator shall review the complaint and documentation, and may also interview knowledgeable persons as appropriate. The administrator should render a written decision within fifteen days after receiving the complaint and documents, or as soon thereafter as feasible. The administrator may accept, reject, or modify any of the previous action(s) in the matter, and/or take other action(s). This decision shall be in writing and shall be served on the complainant, respondent, and others deemed appropriate.

(9) This decision of the reviewing administrator shall be the final decision of the district on that complaint.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-080, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-090 Additional provisions for grade complaints. (1) For student complaints regarding grades received for course work, this section shall apply in addition to the above-described informal and formal procedures.

(2) A student may formally grieve only the final grade received in a course, but that complaint may include any or all of the components of that final grade. For a grade complaint, the respondent(s) shall be, or include, the instructor who issued the grade.

(3) Instead of the deadline in WAC 132F-121-080, a formal complaint regarding a grade must be filed not later than the last day of the quarter which follows the quarter for which the disputed grade was received, except that a complaint regarding a spring quarter grade may be filed through the last day of the following fall quarter.

(4) In specifying the facts and other grounds on which it is based, the formal complaint shall specify the grade that is being challenged and should attach copies of relevant documents. The response on behalf of the respondent shall include, to the extent feasible, the applicable evaluation criteria, copies of the course syllabus and relevant grading records, and the faculty member's explanation for the grade.

(5) Ordinarily the evaluation of course mastery is exclusively within the province of the instructor of a particular course, and so a grade change may be initiated only by that instructor. However, if a formal grade complaint is ultimately reviewed by the vice-president of instruction, and she/he finds that the grade was issued for an improper reason or was arbitrary and capricious or otherwise unlawful, that vice-president may change the grade in the records of the college.

(6) Nothing in these rules shall be construed to limit the separate authority of the vice-president of instruction to change a grade when required by a judicial order or a legal settlement agreement entered into by the district, regardless of whether a complaint has been filed.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-090, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-100 Student conduct generally. (1) Pursuant to the authority granted by RCW 28B.50.140 and other applicable law, the district board of trustees hereby establishes the following rules on student conduct and student discipline as the district's student conduct code.

(2) This student conduct code applies to every person who is enrolled as a student in the district.

(3) Expectations of students. Admission to the district presumes that students will conduct themselves as responsible members of the district community. When students enroll in any of the colleges or facilities operated by the district, they assume the obligation to observe standards of conduct which are appropriate to the pursuit of their educational goals.

(4) Student responsibility. Students have the obligations to:

(a) Maintain high standards of academic and personal honesty and integrity;

(b) Respect the rights of others and cooperate with all parts of the district community to insure that such rights are guaranteed, whether or not the views of those exercising such rights are consistent with their own;

(c) Refrain from actions which would interfere with campus functions or endanger the health, safety, welfare or property of others;

(d) Comply with district rules and regulations; and

(e) Comply with duly constituted civil authority, and obey all applicable laws.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-100, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-110 Student misconduct. Misconduct for which the campuses may impose sanctions includes, but is not limited to, any of the following:

(1) Any act of course-related dishonesty, including but not limited to cheating or plagiarism.

(a) Cheating includes, but is not limited to, using, or attempting to use, any material, assistance, or source which has not been authorized by the instructor to satisfy any expectation or requirement in an instructional course, or obtaining, without authorization, test questions or answers or other academic material that belong to another.

(b) Plagiarism includes, but is not limited to, using another person's ideas, words, or other work in an instructional course without properly crediting that person.

(c) Academic dishonesty also includes, but is not limited to, submitting in an instructional course either information that is known to be false (while concealing that falsity) or work that is substantially the same as that previously submitted in another course (without the current instructor's approval).

(2) Any other act of college-related dishonesty. Such acts include, but are not limited to:

(a) Forgery, alteration, or misuse of any district document, record, or instrument of identification;

(b) Tampering with an election conducted by or for district students; or

(c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a district officer or employee.

(3) Obstruction or disruption of (a) any instruction, research, administration, disciplinary proceeding, or other district activity, whether occurring on or off district property, or (b) any other activity that is authorized to occur on district property, whether or not actually conducted by the district.

(4) Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of any student, any district officer or employee, or any other person who is on district property or is participating in a district activity.

(5) Attempted or actual damage to, or theft or misuse of, real or personal property or money of (a) the district or state, (b) any student or district officer, employee, or organization, or (c) any other person or organization lawfully present on district property, or possession of such property or money after it has been stolen.

(6) Failure to comply with the direction of a district officer or employee who is acting in the legitimate performance of his or her duties, or failure to properly identify oneself to such a person when requested to do so.

(7) Participation in any activity which unreasonably disrupts the operations of the district or infringes on the rights of another member of the district community, or leads or incites another person to engage in such an activity.

(8) Possession or use, without express authorization by the district chancellor or a campus president, of any explosive, incendiary device, dangerous chemical, weapon, or other device or substance which can be used to inflict bodily harm or to damage real or personal property.

(9) Hazing. Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student.

(10) Being observably under the influence of any alcoholic beverage, or otherwise using, possessing, consuming, or selling any alcoholic beverage, except as permitted by law and authorized by the chancellor or a college president.

(11) Being observably under the influence of any narcotic drug or controlled substance as defined in chapter 69.50 RCW, or otherwise using, possessing, consuming, or selling any such drug or substance, except (a) in accordance with a lawful prescription for that student by a licensed health care professional or (b) as permitted by law and authorized by the chancellor or a college president.

(12) Obstruction of the free flow of pedestrian or vehicular movement on district property or at a district activity.

(13) Conduct which is disorderly, lewd, or obscene.

(14) Breach of the peace, or aiding, abetting, or procuring a breach of the peace.

(15) Discriminatory action which harms or adversely affects any student or district employee because of her/his race, color, national origin, mental or physical disability, gender, sexual orientation, age, creed, or religion.

(16) Sexual harassment of a student or district employee. This includes, but is not limited to, engaging in unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature where such behavior offends or would offend a reasonable and prudent person.

(17) Other harassment of a student or district employee. This includes, but is not limited to, repeated and unwelcome following (stalking) or contacting of such a person or making a threat which places that person in reasonable fear of bodily harm.

(18) Smoking inside a campus building or in or on any other property where smoking is not authorized.

(19) Theft or other misuse of computer time or other electronic information resources of the district. Such misuse includes but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to interfere with normal operation of the district's computing system or other electronic information resources;

(g) Use of such time or resources in violation of applicable copyright or other law; or

(h) Adding to or otherwise altering the infrastructure of the district's electronic information resources without authorization.

(20) Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to district property, or unauthorized entry onto or into district property.

(21) Abuse or misuse of any of the procedures relating to student complaints or misconduct, including but not limited to:

(a) Failure to obey a subpoena;

(b) Falsification or misrepresentation of information;

(c) Disruption, or interference with the orderly conduct, of a proceeding;

(d) Interfering with someone else's proper participation in a proceeding;

(e) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;

(f) Attempting to influence the impartiality of, or harassing or intimidating, a student conduct committee member; or

(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(22) Operation of any motor vehicle on district property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

(23) Violation of any other district rule, requirement, or procedure, including but not limited to any that is posted in electronic form, the district's traffic and parking rules, or the requirements for carpool parking.

(24) Violation of any federal, state, or local law, rule, or regulation.

(25) Aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-110, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-120 Instructor sanctions for course work dishonesty or classroom misconduct. (1) An instructor need not give credit for course work that is the product of cheating, plagiarism, or other dishonesty. For any act of dishonesty that occurs during an instructional course, the instructor may adjust the student's grade accordingly for the particular examination, paper, or other work product where that dishonesty occurred. Any such grade adjustment shall not limit or preclude disciplinary sanction(s) for the same act of dishonesty.

(2) An instructor may take appropriate action to maintain order and proper conduct in the classroom and to maintain the effective cooperation of students in fulfilling the objectives of the course. If a student is so disorderly or disruptive that it is difficult or impossible to maintain classroom decorum, that action may include removing that student from that day's class session.

(3) With regard to any act of course-related dishonesty, classroom misconduct, or other academic misconduct, the faculty member involved may notify his/her dean, with supporting documentation. The dean shall then determine whether to refer the matter to the vice-president for student services for possible disciplinary action.

(4) A student who has received a grade adjustment by the instructor on the basis of dishonesty may grieve that adjustment under the student complaint procedure. However, any disciplinary sanction that is imposed instead of or in addition to an instructor's grade adjustment may be imposed and reviewed only under the student disciplinary procedure.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-120, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-130 Disciplinary jurisdiction. (1) Disciplinary action may be instituted against a student for any misconduct that is a violation of this student code, regardless of whether there is a related civil or criminal court proceeding. Proceedings under these rules may precede, accompany, or follow any such court proceeding.

(2) Except as provided in subsection (3), a student is subject to disciplinary action under these rules for any act of misconduct which (a) occurs on or damages district property or (b) occurs during any event or activity that the district conducts, participates in, or sponsors, regardless of where it occurs.

(3) The district reserves jurisdiction and authority to take disciplinary action for student misconduct beyond that described in subsection (2) when the misconduct demonstrates such flagrant disregard for the safety or well-being of others that it endangers the district community.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-130, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-140 Initiation of discipline. (1) The vice-president for student services at each campus is responsible for investigating possible violations of this student conduct code at that campus and initiating any appropriate disciplinary actions. If that officer is a respondent in a complaint initiated by the subject student, the college president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(2) Any member of the district community may make a complaint against a student whom she/he believes has violated this student conduct code. Such a complaint should ordinarily be filed in writing with the vice-president for student services. However, no such complaint is required in order for that vice-president to take action on any matter that comes to his/her attention.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-140, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-150 Vice-president's review and action. (1) After conducting such initial investigation of possible misconduct as she/he deems appropriate, the vice-president for student services shall meet, or make a reasonable effort to meet, with the subject student. At that meeting, or if there is no meeting in a document served on the student, the vice-president shall describe the complaint and/or information that has been received and identify the rule violations that appear to have occurred. In order that any informality not mislead the student as to the seriousness of the matter, the vice-president shall also inform the student of the sanction(s) that may be imposed for the alleged misconduct. The vice-president shall give the student an opportunity to respond to the allegations before a disciplinary decision is made.

(2) After considering the information that has been obtained through investigation and/or from the student, the vice-president may take any of the following actions:

(a) Terminate the proceeding, exonerating the student;

(b) Give any appropriate counseling or advice and then terminate the proceeding;

(c) Impose disciplinary sanction(s), subject to any right of appeal as described herein; or

(d) Refer the matter to the student conduct committee for such action as it deems appropriate. Such referral shall be in writing, to the attention of the committee chair, with a copy served on the student.

(3) A "respondent" as referred to hereinafter is a student upon whom a disciplinary sanction has been imposed or whose case has been referred to the student conduct committee.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-150, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-160 Disciplinary actions. (1) Any of the following disciplinary sanctions may be imposed for violation of one or more specified provisions of this student conduct code:

(a) Warning: Oral notice to the student of the violation(s). There shall be no appeal from a warning.

(b) Reprimand: Written notice to the student of the violation(s). A reprimand indicates, and usually states, that other or further misconduct, especially any continuation or repetition of the misconduct in question, may or will result in more serious disciplinary action. There shall be no appeal from a reprimand.

(c) Probation: Placement of one or more conditions on the student's continued attendance, as specified in the written notice to the student. The time period of the probation will

ordinarily be stated in the notice; if not stated at all, or if so stated, the probation shall be for an indefinite period, concluding only with the end of the student's enrollment.

(d) Suspension from activities: Disqualification of the student, for a stated or indefinite period of time, from participation in specified (or all) privileges, services, or activities that are provided or sponsored by the district.

(e) Suspension of enrollment: Termination, for a stated or indefinite period of time, of all rights as an enrolled student in the college and/or the district, subject to the student's right to seek reinstatement as provided in WAC 132F-121-240.

(f) Expulsion: Permanent termination of a student's enrollment, and right to enroll, at any college or other educational facility in the district.

(g) Grade change: Lowering of a student's grade in a course below that awarded by the instructor.

(2) The conditions or terms of probation or suspension may include, without limitation:

(a) Restriction of future contact or communication with designated persons;

(b) Restriction of the student's access to district property; and/or

(c) Payment for personal injury, property damage, or other expenses related to the violation.

Failure to comply with a condition or term of probation or suspension shall be cause for further disciplinary sanction.

(3) A respondent's record of past misconduct may be considered in determining the appropriate disciplinary action.

(4) A summary suspension and/or an emergency suspension under WAC 132F-121-250 may be combined with or added to another suspension or an expulsion.

(5) A suspension or expulsion may include a provision stating whether all or any part of the respondent's tuition and other fees will be refunded.

(6) A disciplinary sanction, except a warning, shall be imposed through written notice served on the respondent. Each notice of disciplinary action shall state:

(a) A reasonable description of the facts on which the action is based;

(b) The provision(s) of this student conduct code found to have been violated;

(c) The sanction(s) imposed; and

(d) The respondent's right to appeal, i.e., to request an adjudicative proceeding, under these rules (except for a reprimand).

A copy of these student conduct rules should be included with the notice.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-160, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-170 Appeals and referrals generally. (1) Except as otherwise provided herein, a respondent who has received notice of disciplinary sanction(s) imposed by the vice-president for student services may appeal such sanction(s) by filing a written notice of appeal with that officer within twenty days. The notice of appeal may include any statement that the respondent wishes to make of the grounds for her/his appeal.

(2) If the vice-president has referred the matter to the student conduct committee for action, no appeal is required, but the student may file a written response with the vice-president within twenty days of service of that referral.

(3) The vice-president shall promptly transmit any notice of appeal or response to referral, together with a copy of any notification of discipline, to the chair of the student conduct committee, described below. The vice-president should serve a copy of that transmittal on the respondent.

(4) Except through a summary suspension and/or emergency suspension under WAC 132F-121-250, a respondent's enrollment status and rights as an enrolled student shall not be altered, on the basis of a disciplinary sanction imposed by the vice-president, until (a) the appeal period has run without a proper appeal being filed or (b) if there is an appeal, either that appeal has been withdrawn or the final order has been entered.

(5) If a respondent files a timely appeal of a probation or suspension that includes restrictions on contacts, communications, or campus access, the vice-president will ordinarily modify those restrictions as necessary to facilitate the respondent's preparation for the hearing.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-170, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-180 Student conduct committee. (1) A student conduct committee at each college will hear all disciplinary cases at that college which are referred to it by the vice-president for student services or appealed to it by a student. For purposes of WAC 132F-108-020 and any other requirements, the district trustees and chancellor and each college president designate (a) the committee provided for herein to serve as presiding officer to hear the described student disciplinary matters and (b) the committee chair both to handle and decide procedural matters (as provided herein) and to preside at the hearing.

(2) This committee shall be composed of the following three members:

(a) One administrator or exempt employee, appointed by the college president;

(b) One member of the faculty, appointed by the college president; and

(c) One student, appointed by the president of the recognized student government organization.

(3) Each appointment shall be accompanied by the appointment of two alternates. Each member and alternate shall serve for the academic year or until a replacement is appointed, whichever is longer. When a member is not available for a hearing, the committee chair shall designate an alternate to replace him/her for that hearing. If a member or alternate ceases to serve, a successor shall be promptly appointed. A member or alternate may be reappointed in any role.

(4) The administrator or exempt employee shall be the committee chair.

(5) No employee who reports to, or is subject to the authority of, the vice-president who handles student disciplinary matters may be a committee member, as further provided in RCW 34.05.458. A committee member is subject to disqualification for bias, prejudice, interest, or as further provided in RCW 34.05.425.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-180, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-190 Student conduct committee hearings—In general. (1) A respondent student has a right to a prompt, fair, and impartial hearing before the student conduct committee on a referral for, or timely appeal of, a disciplinary sanction, except as otherwise provided in these rules.

(2) Chapter 34.05 RCW and chapter 10-08 WAC govern committee proceedings and control in the event of any conflict with these rules. The district's chapter 132F-108 WAC also governs committee proceedings.

(3) The chair of the committee shall give not less than seven days advance written notice of the hearing to all parties, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause.

(4) The committee chair may provide to the committee members in advance of the hearing copies of (a) the vice-president for student service's notification of imposition of discipline (or referral to the committee) and (b) the notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(5) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions, except as overridden by majority vote of the committee, concerning the extent and forms of any discovery, issuance of protective orders, and similar procedural matters.

(6) Upon request made at least five days before the hearing by either the respondent or the vice-president, the two of them shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present in their respective cases, except impeachment or rebuttal evidence. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(7) The respondent and the vice-president may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(8) The vice-president shall provide reasonable assistance to the respondent, upon request, in obtaining relevant and admissible evidence that is within the college's control.

(9) Communications between committee members and other persons regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(10) Each party may be accompanied at the hearing by a nonattorney assistant of his/her choice. A respondent may elect to be represented by an attorney, but will be deemed to have waived that right unless, at least four days before the hearing, written notice of the attorney's identity and participation is served on both the chair and the vice-president. If the respondent is represented by an attorney, the vice-president may also be represented by an attorney. If both the respondent and vice-president have counsel, the committee will ordinarily be advised by a separate assistant attorney general.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-190, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-200 Student conduct committee hearings—Presentations of evidence. (1) Upon the failure of any party to attend or participate in a hearing, the committee may either (a) proceed with the hearing and issuance of its order or (b) serve an order of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be open to the public, as further provided in RCW 34.05.449. However, if the respondent requests that some or all of it be closed, pursuant to WAC 132F-108-070 and 132F-108-080 or otherwise, the chair shall determine any extent to which the hearing will be closed. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that he/she selects, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to the respondent upon request. The chair shall assure maintenance of the proceeding record that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by the respondent. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The vice-president for student services (unless represented by an attorney) shall present the case for disciplinary action. The facts justifying any such action must be established by a preponderance of the evidence.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-200, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-210 Student conduct committee initial order. (1) At the conclusion of the hearing, the committee shall permit the vice-president for student services and the respondent to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or an order for its consideration.

(2) Within thirty days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue an initial order in accordance with RCW 34.05.461 and WAC 10-08-210. This order shall include findings of fact on all material issues of fact and conclusions of law on all material issues of law - including which, if any, specific provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's order shall also include a determination on appropriate discipline, if any. If the matter was a referral from the vice-president, the committee shall deter-

mine any disciplinary sanction. If the matter was an appeal by the respondent, the committee may affirm, reverse, or modify the discipline imposed by the vice-president and/or impose any other disciplinary sanction authorized herein.

(4) The committee chair shall cause copies of its order to be served on the respondent, the vice-president, the college president, and any legal counsel who have appeared. The committee chair shall also promptly transmit the record of the committee's proceedings to the college president.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-210, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-220 President's review and final college order. (1) The college president shall review the record and enter the final college order, in accordance with RCW 34.05.461(2) and 34.05.464.

(2) If either the respondent or the vice-president for student services wishes to file written argument with the president, she/he must file that argument and serve a copy on the other within fifteen days after service of the committee's order. Within seven days after service of any such argument, the other party may file and serve a written response. The president shall have discretion to modify these deadlines and/or to allow oral arguments. However no new evidence, not already part of the record, may be introduced in any argument, except as expressly authorized by the president upon a showing of compelling legal justification and after any appropriate fact-finding.

(3) The president shall personally consider the whole record or such portions of it as may be cited by the parties. A party's failure to present any argument shall mean that the party is citing "none" of the record.

(4) If the committee's order includes a provision for expulsion, the president must consult with and obtain the agreement of the district chancellor. If the committee's order includes a provision for suspension from any other college(s) of the district, the president must consult with and obtain the agreement of the president(s) of such college(s).

(5) Within ninety days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the president shall either remand the matter for further proceedings, with instructions to the committee, or enter a final order in the matter. The president shall have all of decision-making power that he/she would have had if presiding over the hearing, including the power to affirm, reverse, or modify any disciplinary sanction.

(6) The president's final order shall include, or incorporate by reference to the committee's initial order, all matters required by RCW 34.05.461, in accordance with RCW 34.05.464. It shall also include notice to the respondent of his/her right to seek judicial review under RCW 34.05.510 et seq.

(7) Copies of the final order shall be served on the respondent, the vice-president, any legal counsel who have appeared, and the committee chair.

(8) The decision of the president shall be the final district action in the matter.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-220, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-230 Reestablishment of academic standing after successful appeal. When a student has missed classes and/or course work due to a disciplinary suspension or expulsion, but that disciplinary sanction was appealed and not upheld, the student shall be given a reasonable opportunity to reestablish his/her academic standing and the alternative of a withdrawal and refund of tuition and fees. Depending on the circumstances, reestablishing academic standing may include opportunities to take examinations and otherwise complete course offerings that were missed due to the disciplinary sanction or to retake the class(es).

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-230, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-240 Reinstatement after suspension or expulsion. (1) Any student who has been suspended as a disciplinary sanction shall be reinstated, upon the student's written request, after (a) expiration of the stated time period of the suspension and (b) satisfaction of all conditions of the suspension, if any.

(2) Before a suspension has ended, or if a student has been expelled, the student may petition for reinstatement as an enrolled student. Any such petition shall be submitted in writing to the vice-president for student services, showing facts and circumstances constituting good cause for such reinstatement. No such reinstatement shall be granted unless it is approved by both that vice-president and the college president.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-240, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-250 Summary and emergency suspensions. (1) As part of a suspension or expulsion, a summary suspension and/or an emergency suspension may be imposed in accordance with this section. All, or specified, rights as an enrolled student may be suspended.

(2) A summary suspension may be imposed when necessary to prevent or avoid immediate disruption, danger, or other harm to the educational process or to the health, safety, or welfare of any member(s) of the public, including the district community. The summary suspension may be ordered only after the respondent has been given oral or written notice of the charge(s) and, if s/he denies them, an explanation of the evidence and an opportunity to respond. The order shall be effective when served. A summary suspension may be ordered:

(a) For ten days or less, by the vice-president; and/or

(b) For any time period through the final determination of a respondent's appeal, by the student conduct committee, upon the written request of the vice-president. The vice-president shall serve a copy of this request on the respondent. Before entering its order, the committee shall hold an initial hearing, as it determines is appropriate.

(3) An emergency suspension may be ordered by the vice-president under RCW 34.05.479 when necessary to prevent or avoid immediate danger to the health, safety, or welfare of any member(s) of the public, including the district community.

(a) Before ordering an emergency suspension, the vice-president shall make reasonable effort to give the respondent oral or written notice of the charge(s) and, if the respondent

denies such, an explanation of the evidence and an opportunity to respond.

(b) The vice-president may order the emergency suspension only to the extent, and only for the time period, necessary to prevent or avoid the immediate danger, and only in compliance with RCW 34.05.479. The vice-president shall serve the order on the respondent, or otherwise give him/her such notice as is practicable, and shall also serve a copy on the student conduct committee.

(c) After the emergency suspension order is served, the vice-president and the committee shall proceed as quickly as feasible to complete the appeal proceeding.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-250, filed 7/28/03, effective 8/28/03.]

WAC 132F-121-260 Maintenance of student discipline records. Records of all completed disciplinary cases shall be maintained and disposed of by the vice-president for student services in accordance with applicable records retention requirements and student education record confidentiality requirements.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. 03-16-015, § 132F-121-260, filed 7/28/03, effective 8/28/03.]

Title 132H WAC

COMMUNITY COLLEGES—BELLEVUE COMMUNITY COLLEGE

Chapters

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Chapter 132H-116 WAC
PARKING AND TRAFFIC RULES

WAC

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132H-116-790	Prohibition of literature.

WAC 132H-116-300 Preamble. Under RCW 28B.50.140(10) the board of trustees of Community College District VIII has the authority to establish rules and regulations for pedestrian and vehicular traffic over property owned, operated, or maintained by the college district.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-300, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-300, filed 6/17/92, effective 7/18/92; Order 43, § 132H-116-300, filed 8/10/76.]

WAC 132H-116-310 Objectives of parking and traffic rules and regulations. The objectives of these regulations are:

(1) To protect and control pedestrian and vehicular traffic on property owned, operated, or maintained by the college district.

(2) To assure access at all times for emergency equipment.

(3) To minimize traffic disturbances.

(4) To facilitate the operation of the college by assuring access to vehicles.

(5) To allocate limited parking space for the most efficient use.

(6) To protect state property.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-310, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-310, filed 6/17/92, effective 7/18/92; Order 43, § 132H-116-310, filed 8/10/76. Formerly WAC 132H-116-080.]

WAC 132H-116-315 Definitions. For the purpose of this chapter, the following terms and definitions shall apply:

(1) Board: The board of trustees of Community College District VIII, state of Washington.

(2) Campus: Any or all real property owned, operated, controlled, or maintained by Community College District VIII, state of Washington.

(3) Car pool: Any group of three or more faculty, staff, or students who commute to the college in the same vehicle.

(4) College: Bellevue Community College, or any additional community college hereafter established within Community College District VIII, state of Washington, and collectively, those responsible for its control and operations.

(5) Faculty members: Any employee of Community College District VIII who is employed on a full-time or part-time basis as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, including administrative appointment.

(6) Foot propelled device: Wheeled devices including but not limited to skateboards, roller skates, roller blades, etc. designed or used for recreation and/or transportation purposes.

(7) Public safety officers: Employees of the college accountable to the vice-president of administrative services

and responsible for campus security, public safety, and parking and traffic control.

(8) Staff: The administrative and classified members employed by the college.

(9) Student: Any person enrolled in the college.

(10) Vehicle: An automobile, truck, motorcycle, scooter or bicycle, both engine-powered and nonengine-powered.

(11) Visitor(s): Person(s) who come on to campus as guest(s), or who lawfully visit the campus for purposes in keeping with the college's role as an institution of higher learning in the state of Washington and are neither employees nor registered students of the institution.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-315, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 93-12-007, § 132H-116-315, filed 5/19/93, effective 6/19/93; 92-13-097 (Order 115, Resolution No. 206), § 132H-116-315, filed 6/17/92, effective 7/18/92.]

WAC 132H-116-320 Applicable parking and traffic rules and regulations. The applicable parking and traffic rules and regulations upon the campus are:

(1) The motor vehicle and other traffic laws of the state of Washington. Title 46 RCW.

(2) The traffic code of the city of Bellevue.

(3) The Bellevue Community College parking and traffic regulations. In case of conflict among the provisions of the motor vehicle and other traffic laws of the state of Washington or the traffic code of the city of Bellevue and Bellevue Community College parking and regulations, the provisions of the state of Washington motor vehicle laws shall govern.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-320, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-320, filed 6/17/92, effective 7/18/92; Order 43, § 132H-116-320, filed 8/10/76. Formerly WAC 132H-116-090.]

WAC 132H-116-330 Enforcement of parking and traffic rules and regulations. The vice-president of administrative services is responsible for parking and traffic management on campus. Duly appointed public safety officers of Bellevue Community College are delegated the authority to enforce all college parking and traffic rules and regulations.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-330, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-330, filed 6/17/92, effective 7/18/92; Order 43, § 132H-116-330, filed 8/10/76.]

WAC 132H-116-350 Permits required for vehicles on campus. No person shall park, or leave any vehicle, whether attended or unattended, upon the campus of Bellevue Community College between 6:00 a.m. and 3:00 p.m. without properly displaying a valid permit issued by the public safety or cashiering offices.

(1) A valid permit is:

(a) A current student or faculty/staff permit displayed in accordance with WAC 132H-116-356.

(b) A temporary permit authorized by public safety and displayed in accordance with instructions.

(2) The college reserves the right to refuse to issue a parking permit.

(3) Vehicles displaying government agency license plates do not need BCC parking permits.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-350, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-350, filed 6/17/92, effective 7/18/92. Statutory Authority: RCW 28B.50.140. 82-04-005 (Order 75, Resolution No. 143), § 132H-116-350, filed 1/21/82; 79-10-052 (Order 63, Resolution No. 120), § 132H-116-350, filed 9/17/79; Order 43, § 132H-116-350, filed 8/10/76. Formerly WAC 132H-116-120.]

WAC 132H-116-351 Authorization for issuance of permits. (1) The vice-president of administrative services or his or her designee is authorized to issue all parking permits.

Special permits are valid only in the areas specified, on the date(s) specified on the permits, and when displayed on the dashboard of the vehicle. Vehicles operated by students, faculty and staff members must display a regular student or faculty/staff permit in addition to the special permit.

(1) Car pool permits may be issued to faculty, staff and students. All members of the carpool must appear in person when applying for the permit. One transferable permit will be issued by the public safety office for each car pool. This permit is transferable only among the registered members of the car pool. This permit must be displayed in accordance with the instructions provided with the permit. Each carpool vehicle must also display a regular student or faculty/staff permit.

(2) Handicapped parking permits. As of Fall 1995, BCC no longer issues special parking permits for disabled students, faculty, or staff. Only vehicles displaying a valid state of Washington placard may park in spaces designated for the disabled.

(3) Visitor permits. One-day parking permits may be requested from public safety and given to visitors attending conferences, interviews, etc. These permits are valid in faculty/staff lots except E-1.

(4) Other special permits. Public safety may issue special permits to faculty members, staff, students, parents of child care or headstart participants, volunteers working in BCC programs, or vendors if issuing such permits enhances the operation of the college.

(5) Temporary permits. Drivers needing to leave vehicles on campus overnight or for extended periods of time (e.g., because the vehicle is inoperable, or because the driver will participate in a field trip) may request temporary parking permits from public safety. Drivers may also request temporary permits if they will be using a borrowed or rented vehicle.

(6) Special events. The public safety office will assist college divisions which sponsor functions such as conferences, seminars, dinners, and similar events, in arranging reserved parking and direction signs as appropriate. Requests for such assistance must be received in public safety at least 48 hours in advance.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-351, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-351, filed 6/17/92, effective 7/18/92.]

WAC 132H-116-352 Permit revocations. Parking permits are the property of the college, and may be recalled by

the vice-president of administrative services or his or her designee for any of the following reasons:

(1) When the purpose for which the permit was issued no longer exists.

(2) When a permit is used by an unauthorized individual.

(3) Falsification on a parking permit application.

(4) Repeated violation of parking and traffic regulations.

(5) Counterfeiting or altering of permits.

(6) Failure to comply with a final decision of the citation review committee, or institutional hearing officer.

Parking permit revocations may be appealed to the citation review committee and to the institutional hearing officer.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-352, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-352, filed 6/17/92, effective 7/18/92.]

WAC 132H-116-354 Transfer of permits. (1) With the exception of carpool permits, parking permits are not transferable. If a vehicle is sold or traded, a replacement permit will be issued to the permit holder if he/she:

(a) Records invalid permit number;

(b) Removes invalid permit; and

(c) Brings invalid permit or remnant thereof to public safety. Public safety will then issue a replacement permit and [the] permit holder will then be registered under the new number.

(2) Permits may be reissued as authorized by the director of public safety.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-354, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-354, filed 6/17/92, effective 7/18/92.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132H-116-356 Display of permits. (1) Student or faculty/staff permits. The vehicle permit issued by the college shall be affixed to the inside of the rear window on the lower left corner. If the vehicle is a convertible or a truck-camper or has no permanently fixed rear window, the permit shall be affixed to the front windshield. Permits not displayed in accordance with the provisions of this section shall not be valid and vehicles displaying the improperly placed permit shall be subject to citation.

(2) Temporary or special permits. The temporary permit shall be displayed on the dashboard of the vehicle in such a way that it is legible from outside the vehicle.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-356, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-356, filed 6/17/92, effective 7/18/92.]

WAC 132H-116-360 Visitors—Exemption from permit requirements. (1) The director of public safety may allow visitors without permits to drive through the campus without parking.

(2) The director of public safety or his or her designee may require visitors to wait at the entrances to the campus during times when pedestrian and/or vehicular traffic congestion is above normal. (See WAC 132H-116-430.)

(3) Guests of the college who are present to attend a conference, interview, etc., may be issued visitor permits valid for faculty/staff parking lots.

(4) Visitors on brief errands to campus may park in any student lot.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-360, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-360, filed 6/17/92, effective 7/18/92; Order 43, § 132H-116-360, filed 8/10/76.]

WAC 132H-116-405 Allocation of parking spaces. The parking space available on the campus shall be allocated by the vice-president of administrative services or his or her designee in such manner as will best obtain the objectives of these regulations. The vice-president of administrative services or his or her designee is further authorized to designate and mark the various parking areas on the campus with numbers or titles or both. This includes the authorization to reserve certain areas for vehicles displaying certain special permits.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-405, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-405, filed 6/17/92, effective 7/18/92.]

WAC 132H-116-410 Parking within designated spaces. (1) No vehicle shall be parked on the campus except in those areas set aside and designated as parking areas.

(2) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion of more than one space or stall shall not constitute an excuse for a violation of this section.

(3) No vehicle shall be parked at any time in roadways, fire lanes, bus zones, loading zones, or service driveways; or on sidewalks; or in the landscaping.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-410, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-410, filed 6/17/92, effective 7/18/92; Order 43, § 132H-116-410, filed 8/10/76.]

WAC 132H-116-415 Day and evening parking. Students, staff and faculty may obtain day and/or evening parking on campus to the extent spaces are available as follows:

(1) Student daytime parking is limited to areas designated student parking.

(2) Staff/faculty daytime parking is limited to areas designated staff/faculty parking.

(3) Evening parking, after 3:00 p.m., for students, staff and faculty is available in all designated parking areas with the exceptions of the parking spaces for the handicapped, the college motor pool, and specifically signed reserved areas. Students may not park in those lots designated as "staff/faculty parking" with signage stating "no student parking anytime Mon-Fri."

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-415, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and

RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-415, filed 6/17/92, effective 7/18/92.]

WAC 132H-116-430 Special parking and traffic regulations authorized. During special occasions causing additional and/or heavy traffic and during emergencies, the director of public safety is authorized to impose additional traffic and parking regulations to achieve the specified objectives of this chapter.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-430, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-430, filed 6/17/92, effective 7/18/92; Order 43, § 132H-116-430, filed 8/10/76.]

WAC 132H-116-431 Regulatory signs, markings, barricades, etc. (1) The director of campus operations is authorized to erect signs, barricades, and other structures and to paint marks and other directions upon the streets and parking areas owned and operated by the college. Such signs, barricades, structures, markings, and directions shall be so made and placed as in the opinion of the director of campus operations will best achieve the goals of these regulations.

(2) Drivers of vehicles shall obey the signs, barricades, structures, markings, and directions erected pursuant to this section. Drivers shall also comply with directions given to them by a campus public safety officer or other public safety personnel controlling and regulating traffic or parking

(3) No person without authorization from the director of campus operations shall move, deface, or in any other way change a sign, barricade, structure, marking or direction so placed, or previously placed, for the purpose of regulating traffic or parking.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-431, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-431, filed 6/17/92, effective 7/18/92.]

WAC 132H-116-470 Exceptions to parking and traffic restrictions. The regulations governing permits and parking within designated spaces shall not apply to the drivers of state-owned operated by Bellevue Community College in the performance of assigned functions.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-470, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-470, filed 6/17/92, effective 7/18/92; Order 43, § 132H-116-470, filed 8/10/76.]

WAC 132H-116-590 Motorcycles, bicycles, scooters. (1) Motorcycles, bicycles and scooters are for the purpose of these regulations considered to be motor vehicles and are subject to all traffic and parking rules and regulations controlling other motor vehicles.

(2) Motorcycles and motorized scooters may be parked in designated areas in addition to the regular parking lots.

(3) Motorcycles and motorized scooters are not permitted on paths, sidewalks, or authorized bicycle or pedestrian areas or in buildings at any time.

(4) Bicycles shall be parked in designated areas only. Improperly parked bicycles may be impounded and a citation and/or a fine imposed upon the owner.

(5) No bicycles or foot propelled devices shall be operated on campus walkways, corridors, hallways or buildings unless their use is required as part of the educational process in an authorized program.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-590, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-590, filed 6/17/92, effective 7/18/92. Statutory Authority: RCW 28B.50.140. 82-04-005 (Order 75, Resolution No. 143), § 132H-116-590, filed 1/21/82; Order 43, § 132H-116-590, filed 8/10/76.]

WAC 132H-116-615 Issuance of traffic citations. Upon probable cause to believe that a violation of these rules and regulations has occurred, the vice-president of administrative services and/or duly appointed public safety officers may issue citations setting forth the date, the approximate time, the locality, the nature of the violation, the permit number, license number, infraction, officer, and the amount fine(s), by attaching or affixing a copy thereof to the vehicle allegedly involved in such violation, by placing a copy thereof in some prominent place within such vehicle, by mail, or by personal service.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-615, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-615, filed 6/17/92, effective 7/18/92.]

WAC 132H-116-620 Fines, penalties and impounding. (1) The current schedule and fines for parking and traffic violations shall be published by the college and made available for review in the public safety office.

(2) An individual receiving a parking and traffic citation must pay all fines listed on the citation notice within 20 calendar days after the date on the citation notice unless he/she elects to appeal the citation. Payments should be taken or mailed to the cashiering office.

(3) If any citation remains unpaid after 20 calendar days from the date of the citation, Bellevue Community College may take any of the following actions:

(a) Withhold degrees, transcripts, grades, refunds, and/or credits;

(b) Block or delay registration for the following quarter;

(c) Impound the violator's vehicle;

(d) Deny future parking privileges, whether student or faculty/staff;

(e) Refuse to issue keys to students, faculty or staff.

(4) In addition to imposing fines, the vice-president of administrative services and duly appointed public safety officers are authorized to impound, immobilize and take to such place for storage as the director of public safety selects, any vehicles parked on college property in violation of these regulations with the following stipulations:

(a) The expenses of such impounding, immobilization and storage shall be charged to the owner or operator of the vehicle and must be paid prior to the vehicle's release.

(b) The college shall not be liable for loss or damage of any kind resulting from such impounding, immobilization or storage.

(c) Impoundment of a vehicle does not remove the obligation for any fines associated with the violation.

(d) Grounds for impounding vehicles shall include, but not be limited to the following:

(i) Blocking a roadway so as to impede the flow of traffic;

(ii) Blocking a walkway so as to impede the flow of pedestrian traffic;

(iii) Blocking a fire hydrant or fire lane;

(iv) Creating a safety hazard in the opinion of a public safety officer;

(v) Blocking another legally parked vehicle;

(vi) Parking in a marked "tow-away" zone.

(5) An accumulation of traffic violations by a student will be cause for disciplinary action, and the vice-president of administrative services or his or her designee may initiate disciplinary proceedings against such students.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-620, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-620, filed 6/17/92, effective 7/18/92. Statutory Authority: RCW 28B.50.140. 82-04-005 (Order 75, Resolution No. 143), § 132H-116-620, filed 1/21/82; 79-10-052 (Order 63, Resolution No. 120), § 132H-116-620, filed 9/17/79; Order 54, § 132H-116-620, filed 12/9/77; Order 43, § 132H-116-620, filed 8/10/76. Formerly WAC 132H-116-160.]

WAC 132H-116-630 Appeals of fines and penalties. (1) Right to appeal. Anyone who has received a citation for an alleged violation of these parking and traffic rules has the right to appeal. Appeals must be made in writing and must be submitted to administrative services within 20 calendar days after the date of the citation. Appeal forms are available from the public safety, cashiering and administrative services offices.

If the alleged violator has paid the fine(s) associated with the parking and traffic citation, he/she has forfeited the right to appeal the citation.

(2) Citation review committee. Appeals shall be considered by the BCC citation review committee, which is made up of two students (one the ASBCC chief justice), a faculty representative and a classified staff representative. The citation review committee shall hold hearings regularly throughout the academic year. The committee shall consider each appeal on its merits based upon these parking and traffic regulations. Appellants shall be notified on the hearing dates so that they may state their cases and present any additional evidence in person. The committee shall decide the cases of appellants who do not attend the hearing in person based on the statements given on the appeal form, with no penalty for nonappearance. Appellants who do not attend the hearing shall be sent written notification of the committee's decision.

The citation review committee may uphold, reduce, or waive the fine(s) associated with the parking and traffic citation. Any fine(s) still levied against the appellant must be paid within 15 calendar days after the date of the hearing unless the appellant wishes to pursue a second-level appeal. Nonpayment after 15 calendar days may result in any of the college actions listed under WAC 132H-116-620.

(3) Second level appeal. An appellant who is not satisfied with the decision of the citation review committee has the right to a second-level appeal before the institutional hearing officer appointed by the president of Bellevue Community College. The appellant must contact the institutional hearing officer within 15 calendar days after the citation review committee hearing to request a second-level appeal. The institutional hearing officer shall notify the appellant of his/her decision in writing. The institutional hearing officer's decision is final.

Any appellant who has paid the fine(s) confirmed or set by the citation review committee has forfeited the right to a second-level appeal.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-630, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-630, filed 6/17/92, effective 7/18/92; Order 43, § 132H-116-630, filed 8/10/76. Formerly WAC 132H-116-170.]

WAC 132H-116-655 Report of accident and theft. The operator of any vehicle involved in an accident on campus resulting in injury to or death of any person or total or claimed damage to either or both vehicles of $500, shall within 24 hours report such accident to the public safety department. This does not relieve any person so involved in an accident from his responsibility to file a state of Washington motor vehicle accident report within 24 hours after such accident.

Students, faculty, staff, and visitors should report any theft of or out of vehicles to the public safety department promptly.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-655, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-655, filed 6/17/92, effective 7/18/92.]

WAC 132H-116-750 Delegation of authority. The authority and powers conferred upon the director of campus operations or the director of public safety by these regulations may be delegated by them to their subordinates.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-750, filed 12/11/03, effective 1/11/04. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-13-097 (Order 115, Resolution No. 206), § 132H-116-750, filed 6/17/92, effective 7/18/92; Order 43, § 132H-116-750, filed 8/10/76.]

WAC 132H-116-790 Prohibition of literature. Distribution of literature by placing the same on motor vehicles parked on the premises of Bellevue Community College is hereby prohibited. Literature includes but is not limited to:

(1) Pamphlets

(2) Flyers

(3) Stickers.

[Statutory Authority: RCW 28B.50.140. 04-01-046, § 132H-116-790, filed 12/11/03, effective 1/11/04; Order 43, § 132H-116-790, filed 8/10/76.]

Chapter 132H-120 WAC

THE STUDENT CODE OF COMMUNITY COLLEGE DISTRICT VIII

WAC

132H-120-020	Preamble.
132H-120-030	Definitions.
132H-120-040	Jurisdiction.
132H-120-050	Student rights and freedoms.
132H-120-200	Student responsibilities.
132H-120-220	Responsibility of college discipline committee.
132H-120-300	Discipline committee procedure.
132H-120-310	Decision by the college discipline committee.

WAC 132H-120-020 Preamble. Bellevue Community College is maintained by the state of Washington for the pur-

pose of providing its students with appropriate learning programs which will facilitate the orderly pursuit and achievement of their educational objectives. The college is dedicated not only to learning and the advancement of knowledge but also to the development of ethically sensitive and responsible persons through policies which encourage independence and maturity.

The student is in the unique position of being a member of the college community and the community at large. Admission to the college carries with it the expectation that students:

(1) Will respect and abide by the laws of the community, state, and nation;

(2) Will adhere to college rules and regulations which assure the orderly conduct of college affairs;

(3) Will maintain high standards of integrity and honesty;

(4) Will respect the rights, privileges, and property of other members of the college community; and

(5) Will not interfere with legitimate college affairs.

Bellevue Community College may apply sanctions or take other appropriate action only when student conduct interferes with the college's:

(1) Primary educational responsibility of ensuring the opportunity of all members of the college community to attain their educational objectives;

(2) Subsidiary responsibilities of protecting property, keeping records, providing services, and sponsoring nonclassroom activities, such as lectures, concerts, athletic events and social functions.

An atmosphere of learning and self-development is created by appropriate conditions in the college community. The rights, freedoms and responsibilities in this document are critical ingredients toward the free, creative and spirited educational environment to which the students, faculty, and staff of Bellevue Community College are committed.

[Statutory Authority: RCW 28B.50.140. 03-14-015, § 132H-120-020, filed 6/19/03, effective 7/20/03. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-19-047, § 132H-120-020, filed 9/10/92, effective 10/11/92; Order 16, § 132H-120-020, filed 3/15/73.]

WAC 132H-120-030 Definitions. As used in this student code of Community College District VIII the following words and phrases shall mean:

(1) "Alcoholic beverages" are any beverages as defined in RCW 66.04.010(15), as now law or hereafter amended.

(2) "Assembly" is any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons or groups of persons.

(3) "Associated students" is the student body and such authorized groups organized under the provisions of the constitution and bylaws of the associated students of the college.

(4) "Board" means the board of trustees of Community College District VIII, state of Washington.

(5) "College" means Bellevue Community College located within Community College District VIII, state of Washington.

(6) "College property or facilities" are any and all real and personal property that the college owns, uses, controls or operates, including all equipment, buildings and appurtenances affixed thereon or attached thereto. College property and facilities extend to affiliated websites, distance education classroom environments, and agencies or institutions that have educational agreements with the college.

(7) "College personnel" refers to any person employed on a full-time or part-time basis, except those who are faculty members, by Bellevue Community College.

(8) "Complaint" means any expression of dissatisfaction with the performance of a student, employee or procedure.

(9) "Controlled substance" is any drug or substance as defined in RCW 69.50 as now law or hereafter amended.

(10) "Disciplinary action" includes warning, reprimand, probation, expulsion, suspension, or any sanction of any student by the dean of student services, the college discipline committee, the president, or the board of trustees for the violation of any of the provisions of the student code for which sanctions may be imposed.

(11) "Distance education" means various methods of instructional delivery that include, but are not limited to, online courses, telecourses and interactive video courses.

(12) "District" means Community College District VIII, state of Washington.

(13) "Faculty member" means any employee of Bellevue Community College who is employed on a full-time or part-time basis as a teacher, counselor, librarian, or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, including administrative appointment.

(14) "Free speech area" means an area that shall be designated by the college president which can be reserved by student groups through the office of student programs.

(15) "President" means the duly appointed chief executive officer of Bellevue Community College, state of Washington, or in his/her absence, the acting chief executive officer.

(16) "Recognized student organization" shall mean and include any group or organization composed of students which is formally recognized by the associated students of Bellevue Community College.

(17) "Sponsored event or activity" shall mean any activity that is scheduled by the college and supervised and controlled by the college's faculty members, librarians, counselors, or other college personnel. Such "sponsorship" shall continue only as long as the event is supervised and controlled by the college faculty member, librarian, counselor or other college personnel. When the sponsored event or activity is of prolonged nature, and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the activity shall be deemed to a nonsponsored activity.

(18) "Student," unless otherwise qualified, means any person who is enrolled for classes or has been accepted for admission to the college.

[Statutory Authority: RCW 28B.50.140. 03-14-015, § 132H-120-030, filed 6/19/03, effective 7/20/03; 02-10-069, § 132H-120-030, filed 4/26/02, effective 5/27/02. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-19-047, § 132H-120-030, filed 9/10/92, effective 10/11/92; Order 16, § 132H-120-030, filed 3/15/73.]

WAC 132H-120-040 Jurisdiction. (1) All rules herein adopted concerning student conduct and discipline shall apply to every student whenever said student is participating in a distance education class or event, or is attending a class, or is present in any college facility, or whenever said student is engaged in or present at any college-related activity whether occurring on or off college facilities.

(2) Faculty members, other college employees, and members of the public who breach or aid or abet another in the breach of any provision of this chapter shall be subject to

(a) Possible prosecution under the state criminal law;

(b) Any other civil or criminal liability for which remedies are available to the public; or

(c) Appropriate disciplinary action pursuant to the state of Washington higher education personnel board or the district's policies and regulations.

(d) Restriction from entry to any college property or facilities, the violation of which could result in criminal trespass;

(3) The college may carry out any disciplinary proceedings prior to, simultaneously, or following civil or criminal proceedings in a court of law.

[Statutory Authority: RCW 28B.50.140. 03-14-015, § 132H-120-040, filed 6/19/03, effective 7/20/03. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-19-047, § 132H-120-040, filed 9/10/92, effective 10/11/92; Order 16, § 132H-120-040, filed 3/15/73.]

WAC 132H-120-050 Student rights and freedoms. The following enumerated rights and freedoms are guaranteed to each student within the limitations of statutory law and college policies that are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed rights of free inquiry, expression and peaceful assembly upon and within college facilities that are generally open and available to the public. Students and other members of the college community shall always be free to express their views or support causes by orderly means which do not disrupt the regular and essential operation of the college.

(b) Students shall have the right of assembly as defined in WAC 132H-120-030 upon college facilities that are generally available to the public: Provided, That such assembly shall:

(i) Be conducted in an orderly manner; and

(ii) Not unreasonably interfere with vehicular or pedestrian traffic; or

(iii) Not unreasonably interfere with classes, schedules, meetings, or ceremonies, or with the educational functions of the college;

(iv) Not unreasonably interfere with college functions; and

(v) Not cause damage or destruction to college property or private property on the college campus.

(vi) The president reserves the right to direct students assembling under this subsection to relocate to the free speech area designated in WAC 132H-120-030(14), to prevent interference will college classes or other college activities.

(c) Students are free to pursue appropriate educational objectives from among the college's curricula, programs and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(d) Students shall be protected from academic evaluation which is arbitrary, prejudiced or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(e) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and sexual harassment.

(2) Due process.

(a) The right of students to be secure in their persons, quarters, papers and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this student code is entitled, upon request, to procedural due process as set forth in this chapter.

(3) Distribution and posting. Students may distribute or post printed or published material subject to official procedures printed and available in the office of student programs. All free publications not in violation of state and/or federal laws such as books, magazines, newspapers, handbills, leaflets, or similar materials may be distributed on campus. The college may restrict the distribution of any publications where such distribution unreasonably interferes with college operations. Such materials may be distributed from authorized public areas in the student center and at any outdoor area on campus consistent with the maintenance of college property, with the free flow of traffic and persons, and not in a manner which in itself limits the orderly operation of college affairs. Any person desiring to distribute such publications shall first register with the office of student programs so that reasonable areas and times can be assured and the activities of the institution will not be unduly interfered with. All handbills, leaflets, newspapers, and similarly related matter must bear identification as to the publishing agency and distributing organization or individual.

(4) Off campus speakers. Recognized student organizations shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding, and compliance with the college procedures available in the campus operations office.

(5) Incidental sales. Students have the right to engage in incidental sales of personal property in a private transaction provided college facilities are not explicitly used for this purpose.

(6) Commercial activities. The use of college grounds or facilities for commercial or private gain purposes is prohibited except where commercial activity such as sale of books, instructional supplies, or food contribute to the operation of the instructional program or where limited sale is specifically authorized by the dean of student services for the benefit of the approved activity.

(7) Fund raising. Students have the right to engage in fund raising activities for nonprofit organizations as recognized by the Internal Revenue Service. All fund raising activities must be approved by the dean of student services.

(8) Sale of merchandise. All merchandise offered for commercial sale may be sold only through the college book-

store or college food services except when approved by the dean of student services.

[Statutory Authority: RCW 28B.50.140. 03-14-015, § 132H-120-050, filed 6/19/03, effective 7/20/03; 02-10-069, § 132H-120-050, filed 4/26/02, effective 5/27/02. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 93-12-008, § 132H-120-050, filed 5/19/93, effective 6/19/93; 92-19-047, § 132H-120-050, filed 9/10/92, effective 10/11/92; Order 16, § 132H-120-050, filed 3/15/73.]

WAC 132H-120-200 Student responsibilities. Any student shall be subject to disciplinary action as provided for in this chapter, who either as a principal actor, aide, abettor or accomplice as defined in RCW 9A.08.020:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college;

(2) Engages in unlawful conduct;

(3) Violates any provisions of this chapter; or

(4) Commits any prohibited act, including but not limited to the following:

(a) Alcoholic beverages. Being demonstrably under the influence of any form of alcoholic beverage. Possessing or consuming any form of liquor or alcoholic beverage except as a participant of legal age in a student program, banquet or educational program which has the special written authorization of the college president or his/her designee.

(b) Controlled substances. Using, possessing, selling or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101 as now law or hereafter amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation, "sale" shall include the statutory meaning defined in RCW 69.04.-005 as now law or hereafter amended.

(c) Illegal entry. Unauthorized entry into or onto any locked or otherwise closed college property or facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(d) Forgery or alteration of records. Forgery, as defined in RCW 9A.60.010 - 9A.60.020 as now law or hereafter amended or any district record of instrument or tendering any forged record of instrument to any employee or agent of the district acting in his/her official capacity as such.

(e) Illegal assembly. Participation in an assembly which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the educational and administrative functions of the college, or the private rights and privileges of others.

(f) Malicious mischief. Intentional or negligent damage to or destruction of any college facility or other public or private real or personal property.

(g) Failure to follow instructions. Failure to comply with directions of properly identified college officials acting in performance of their duties.

(h) Physical abuse. Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

(i) Assault. Assault, reckless endangerment, intimidation or interference upon another person in the manner set forth in RCW 9A.36.010 through 9A.36.050 or RCW 28B.10.570 through 28B.10.572 as now or hereafter amended.

(j) Disorderly, abusive, or bothersome conduct. Disorderly or abusive behavior that interferes with the rights of others or which obstructs or disrupts teaching, research, or administrative functions.

(k) Weapons. Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the college campus, except for authorized college purposes or for law enforcement officers, unless written approval has been obtained from the dean of student services or any other person designated by the president.

(l) Lewd conduct. Engaging in lewd, indecent, or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

(m) False alarms. Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or other device established for the safety of individuals and/or college facilities.

(n) Cheating and plagiarism. Engaging in cheating, stealing, plagiarizing, knowingly furnishing false information to the college, or submitting to a faculty member any work product that the student fraudulently represents as his or her own work for the purpose of fulfilling or partially fulfilling any assignment or task required as part of a program of instruction.

(o) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior knowingly offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(p) Theft or robbery. Theft or robbery from the district or from another as defined in RCW 9A.56.010 through 9A.56.-050 and RCW 9A.56.100 as now law or hereafter amended.

(q) Unauthorized use of property. Converting or using college equipment, supplies or other property without proper authority.

(r) Refusal to provide identification. Refusal to provide positive identification (e.g., valid driver's license or state identification card) in appropriate circumstances to any college employee in the lawful discharge of said employee's duties.

(s) Smoking. Smoking in any college facility or on campus grounds except where specifically posted as permitted, or any other smoking not complying with chapter 70.160 RCW.

(t) False complaint. Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

(u) Improper use of computer, telephone or other electronic devises. Conduct that violates WAC 132H-120-210. Trespassing or gaining access, without authorization, to a computer, system, network, or electronic data owned, used by, or affiliated with the college.

(v) Ethics violation. The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking courses or is pursuing as an educational goal or major. These ethics codes must be distributed to students as part of an educational program, course, or sequence of courses and the student must be informed that

a violation of such ethics may subject the student to disciplinary action by the college.

(w) Criminal law violation, illegal behavior, other unlawful violations. Students can be reported to proper authorities for acts which constitute violations to applicable local, state and federal laws. When the student's behavior is determined to threaten the health, safety and/or property of the college and its members, the college may immediately and summarily suspend the student and refer any such violation to the proper authorities for disposition.

[Statutory Authority: RCW 28B.50.140. 03-14-015, § 132H-120-200, filed 6/19/03, effective 7/20/03; 02-10-069, § 132H-120-200, filed 4/26/02, effective 5/27/02. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 93-12-008, § 132H-120-200, filed 5/19/93, effective 6/19/93; 92-19-047, § 132H-120-200, filed 9/10/92, effective 10/11/92. Statutory Authority: RCW 28B.50.140. 86-01-056 (Order 91, Resolution No. 169), § 132H-120-200, filed 12/16/85; 83-12-012 (Order 84, Resolution No. 155), § 132H-120-200, filed 5/23/83; 81-07-034 (Order 71, Resolution No. 135), § 132H-120-200, filed 3/13/81; 80-15-011 (Order 71, Resolution No. 131), § 132H-120-200, filed 10/6/80; 78-07-024 (Order 57, Resolution No. 111), § 132H-120-200, filed 6/15/78; Order 44, § 132H-120-200, filed 8/11/76; Order 16, § 132H-120-200, filed 3/15/73.]

WAC 132H-120-220 Responsibility of college discipline committee. The dean of student services is the college administrator responsible for student discipline. All discipline procedures will be initiated by the dean or his/her designee. The dean shall have the authority to administer the disciplinary action prescribed in this chapter and to convene the college discipline committee. The composition of the college discipline committee shall be as follows: The committee shall be established each fall. It will be composed of the following persons:

(1) A faculty member appointed by the president of the college.

(2) A member of the faculty, appointed by the president of the Bellevue Community College Association of Higher Education.

(3) Two representatives selected by the student services cabinet.

(4) Three students appointed by the president of the associated students of Bellevue Community College.

None of the above-named persons shall sit in any case in which he/she has a conflict of interest, is a complainant or witness, has a direct or personal interest, or has acted previously in an advisory capacity. Decisions in this regard, including the selection of alternates, shall be made by the college discipline committee as a whole.

The college discipline committee chair will be elected by the members of the college discipline committee.

There shall be a list of alternates provided in the same manner and number in which membership was obtained. The quorum required for a hearing is the chair, one faculty member, one representative of the student services cabinet and one student.

[Statutory Authority: RCW 28B.50.140. 03-14-015, § 132H-120-220, filed 6/19/03, effective 7/20/03; 02-10-069, § 132H-120-220, filed 4/26/02, effective 5/27/02. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 93-12-008, § 132H-120-220, filed 5/19/93, effective 6/19/93; 92-19-047, § 132H-120-220, filed 9/10/92, effective 10/11/92. Statutory Authority: RCW 28B.50.140. 86-01-056 (Order 91, Resolution No. 169), § 132H-120-220, filed 12/16/85; Order 16, § 132H-120-220, filed 3/15/73.]

WAC 132H-120-300 Discipline committee procedure. (1) The discipline committee shall conduct a hearing within twenty calendar days after disciplinary action has been referred to the committee.

(2) When a person is charged with an offense punishable by suspension, or dismissal of his or her relationship with the institution, and where the person

(a) Waives the opportunity for a brief adjudicative proceeding, or

(b) By his/her conduct in the judgment of the hearing officer makes it impossible to conduct a brief adjudicative proceeding, or

(c) Is dissatisfied with the results of the brief adjudicative proceeding; that person is entitled to an adjudicative proceeding according to the provisions of RCW 34.05.410 and the guidelines of this chapter. Where an adjudicative proceeding is neither required by law nor requested by the student or the college, the matter may be resolved informally. Brief adjudicative proceedings before the discipline committee shall be conducted in any manner which will bring about a prompt, fair resolution of the matter.

(3) Written notice of the time and place of this hearing before the college discipline committee, shall be given to the student by personal service or certified mail not less than fifteen calendar days in advance of the hearing. The notice shall be issued by the dean of student services and shall contain:

(a) A statement of the time, place and nature of the disciplinary proceedings;

(b) A statement of the charges including reference to the particular sections of the student code involved; and

(c) To the extent known, a list of witnesses who will appear and a summary description of any documentary or other physical evidence that will be presented by the college at the hearing.

(4) The student shall be entitled to:

(a) Hear and examine the evidence against him or her and be informed of the identity of its source;

(b) Present evidence in his or her own behalf and to cross-examine witnesses testifying on behalf of the college as to factual matters.

(c) Take depositions upon oral examination or written interrogatories. Discovery shall be done according to the rules of civil procedure or by a less formal method where all parties agree.

(5) The student shall have all authority possessed by the college to obtain information relevant to the issues of the hearings, he/she specifically describes, in writing, and tenders to the dean of student services no later than three days prior to the hearings, or requests the presence of witnesses or the production of other relevant evidence.

(6) The student shall have the right to dismiss a member of the college discipline committee on prejudicial grounds if notice is tendered in writing to the dean of student services at least three days prior to the scheduled hearing.

(7) The student may be represented by counsel of his or her choice at the disciplinary hearing. If the student elects to choose a duly licensed attorney as his or her counsel, he or she must tender at least seven calendar days' notice thereof to the dean of student services.

(8) In all disciplinary proceedings the college may be represented by the dean of student services or his or her des-

ignee who shall present the college's case to the college discipline committee. The dean of student services may elect to have the college represented by an assistant attorney general.

(9) An adequate record of the hearing shall be maintained and shall include:

(a) All documents, motions, and intermediate rulings;

(b) Evidence received and considered;

(c) A statement of matters noticed; and

(d) Questions and offers of proof, objections and rulings thereon.

(10) The chair of the college discipline committee shall preside at the disciplinary hearing and shall be considered the presiding officer.

(11) The dean of student services shall designate a recorder to take notes during the hearing and to prepare a written summary of all evidence, facts and testimony presented to the college discipline committee during the course of the hearing.

(12) Hearings conducted by the college discipline committee generally will be held in closed session, provided that the accused student may request the hearing to be held in open session.

(13) If at any time during the conduct of a hearing visitors disrupt the proceedings, the chair of the committee may exclude such persons from the hearing room.

(14) Any student attending the college discipline committee hearing who continues to disrupt the proceedings after the chair of the committee has asked him or her to cease or to leave the hearing room shall be subject to disciplinary action.

[Statutory Authority: RCW 28B.50.140. 03-14-015, § 132H-120-300, filed 6/19/03, effective 7/20/03; 02-10-069, § 132H-120-300, filed 4/26/02, effective 5/27/02. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 93-12-008, § 132H-120-300, filed 5/19/93, effective 6/19/93; 92-19-047, § 132H-120-300, filed 9/10/92, effective 10/11/92; Order 16, § 132H-120-300, filed 3/15/73.]

WAC 132H-120-310 Decision by the college discipline committee. (1) Upon conclusion of the disciplinary hearing, the college discipline committee shall consider all the evidence therein presented and decide by majority vote whether to uphold the decision of the dean of student services or to recommend to the president any of the following actions:

(a) That the college terminate the proceedings and exonerate the student or students:

(b) That the college impose any of the disciplinary actions as provided in this chapter.

(2) Within seven calendar days, the student will be provided with a copy of the college discipline committee's findings of fact and conclusions regarding what occurred, whether the student violated any provision of the student code and recommendation for the final disposition of the matter at issue. The committee shall also advise the student of his/her rights to present, within twenty-one calendar days, a written statement to the president of the college appealing the recommendation of the college discipline committee.

[Statutory Authority: RCW 28B.50.140. 03-14-015, § 132H-120-310, filed 6/19/03, effective 7/20/03. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-19-047, § 132H-120-310, filed 9/10/92, effective 10/11/92; Order 16, § 132H-120-310, filed 3/15/73.]

Chapter 132H-132 WAC

BELLEVUE COMMUNITY COLLEGE CALENDAR

WAC

132H-132-010 through 132H-132-020 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132H-132-010 Title. [Order 17, § 132H-132-010, filed 9/11/73.] Repealed by 03-14-014, filed 6/19/03, effective 7/20/03. Statutory Authority: RCW 28B.50.140.

132H-132-020 Bellevue Community College calendar. [Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-19-055, § 132H-132-020, filed 9/10/92, effective 10/11/92; Order 17, § 132H-132-020, filed 9/11/73.] Repealed by 03-14-014, filed 6/19/03, effective 7/20/03. Statutory Authority: RCW 28B.50.140.

WAC 132H-132-010 through 132H-132-020 Repealed. See Disposition Table at beginning of this chapter.

Chapter 132H-152 WAC

SPECIAL GRIEVANCE PROCEDURES FOR COMMUNITY COLLEGE DISTRICT VIII

WAC

132H-152-135 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132H-152-135 Discrimination complaint procedure. [Statutory Authority: RCW 28B.50.140. 02-14-006, § 132H-152-135, filed 6/20/02, effective 7/21/02; 96-01-057, § 132H-152-135, filed 12/15/95, effective 1/15/96.] Repealed by 03-14-013, filed 6/19/03, effective 7/20/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapter 132H-155 WAC.

WAC 132H-152-135 Repealed. See Disposition Table at beginning of this chapter.

Chapter 132H-155 WAC

DISCRIMINATION COMPLAINT PROCEDURE OF BELLEVUE COMMUNITY COLLEGE

WAC

132H-155-010 Title.
132H-155-020 Purpose.
132H-155-030 Informal complaint process.
132H-155-040 How to file a discrimination complaint.
132H-155-050 Formal discrimination complaint procedure.
132H-155-060 Appeal.
132H-155-070 External complaint.

WAC 132H-155-010 Title. WAC 132H-155-010 through 132H-155- shall be known as the discrimination complaint procedure of Bellevue Community College.

[Statutory Authority: RCW 28B.50.140. 03-14-013, § 132H-155-010, filed 6/19/03, effective 7/20/03.]

WAC 132H-155-020 Purpose. It is the policy of Bellevue Community College to provide clear and accurate information, provide accessible services, and offer excellent educational programs and quality service.

Bellevue Community College, through its affirmative action policy and general policy on sexual harassment, and in

accordance with state and federal regulations, prohibits discrimination against students and employees on the basis of race or ethnicity, creed, color, national origin, sex, marital status, sexual orientation, age, religion, the presence of sensory, mental or physical disability, or status as a disabled or Vietnam-era veteran.

BCC employees are responsible for ensuring that their conduct does not discriminate against anyone; they are expected to treat people conducting business at Bellevue Community College with respect and may expect the same consideration, in return.

[Statutory Authority: RCW 28B.50.140. 03-14-013, § 132H-155-020, filed 6/19/03, effective 7/20/03.]

WAC 132H-155-030 Informal complaint process. The purpose of this step is to enable an individual to express and resolve misunderstandings, complaints or grievances at the lowest level possible by speaking directly with the employee or departmental supervisor. The aggrieved person should make an appointment to talk directly with the employee to attempt to reach a mutual agreement. In some situations, the aggrieved person may be more comfortable requesting a meeting with the employee's supervisor, instead. Both parties should be courteous, flexible and respectful, as concerns are identified and possible resolutions discussed. Both sides should be open to alternative solutions or suggestions. If the problem cannot be solved together, the following formal complaint procedures may be used.

[Statutory Authority: RCW 28B.50.140. 03-14-013, § 132H-155-030, filed 6/19/03, effective 7/20/03.]

WAC 132H-155-040 How to file a discrimination complaint. Whenever a complaint alleges discrimination or sexual harassment, this procedure should be used rather than the other complaint procedures. Alleged Title IX and Section 503 violations as well as other discrimination complaints will be investigated under this procedure. A student or member of the public who believes he/she has been discriminated against should bring his/her complaint to the Department of Human Resources, A101, or telephone (425) 564-2274.

[Statutory Authority: RCW 28B.50.140. 03-14-013 and 03-14-138, § 132H-155-040, filed 6/19/03 and 7/2/03, effective 7/20/03 and 8/2/03.]

WAC 132H-155-050 Formal discrimination complaint procedure. Discrimination complaints should be filed within one year after the incident(s) occurred. The college will act promptly to investigate the complaint and will attempt to protect the rights of the individual bringing the complaint (the complainant), the alleged discriminator, and any witnesses involved. All parties involved have the right to protection from any retaliating behavior by the alleged discriminator or any college employee. All complaints shall be kept as confidential as is reasonably possible during the investigation/resolution process. However, complaints may be subject to public disclosure under the state's Public Disclosure Act, and therefore the college cannot assure confidentiality to any participant in the process.

If administrators or supervisors become aware that discrimination is occurring, receive a complaint, or obtain other information indicating possible discrimination, they must notify the vice president of human resources as soon as reasonably possible, to ensure that the matter is addressed, even if the problem or alleged problem is not within their area of responsibility and authority.

Complainants, individuals charged, and any witnesses are entitled to representation of their selection throughout the complaint process. The individual charged will be informed that his/her bargaining unit representative will be notified that a complaint has been filed against him/her, unless he/she requests that no notification be made.

Within seven days after the formal complaint has been filed, the individual charged, his/her immediate supervisor and the area dean/vice-president will be notified that a complaint has been filed.

The complainant may request an alternate dispute resolution process prior to or in lieu of the investigatory process outlined below. The vice-president of human resources or designee (the investigator) will conduct interviews with the complainant, the alleged discriminator, and any witnesses to allegations identified by the complainant and the alleged discriminator. Reasonable efforts will be made to complete such interviews within ninety days.

The report summarizing the findings of the investigation and the determination as to whether or not discrimination has occurred shall be forwarded to the appropriate area dean/vice-president.

The decision regarding what action to take on the complaint, including, but not limited to, appropriate corrective measures and/or disciplinary action shall be made by the area dean/vice-president and reported to the complainant. Copies of the determination shall be sent to the complainant, alleged discriminator, the alleged discriminator's supervisor and the vice-president of human resources. Reasonable efforts will be made to take action on the complaint within thirty days after receipt of the report. If a decision is made to take disciplinary action, such action shall be taken in accordance with appropriate college procedures and collective bargaining agreements.

[Statutory Authority: RCW 28B.50.140. 03-14-013, § 132H-155-050, filed 6/19/03, effective 7/20/03.]

WAC 132H-155-060 Appeal. Appeals of any disciplinary action, including any finding that discrimination occurred, may be made through the appropriate employee contract or the student code.

If the complainant is not satisfied with the disposition of the complaint, she/he may file a written appeal to the president within ten days after notification of the disposition of the complaint. This request should include any and all additional information s/he wants the president to consider. The decision regarding the appeal, including appropriate corrective measures, shall be made in writing by the president within fifteen days after receipt of an appeal.

[Statutory Authority: RCW 28B.50.140. 03-14-013, § 132H-155-060, filed 6/19/03, effective 7/20/03.]

WAC 132H-155-070 External complaint. Any student, employee, applicant for admission or employment, or member of the public using BCC facilities who believes he/she has been discriminated against has the right to bypass the internal college process and file a discrimination com-

plaint with one of the agencies listed below or any other agency with the jurisdiction to hear such complaints. Individuals seeking assistance from state and federal agencies need to be aware that many agencies have strict timelines regarding the filing of complaints.

Equal Employment Opportunity Commission
909 First Avenue, Suite 400
Seattle, WA 98104-1061

Human Rights Commission
1511 Third Avenue, Suite 921
Seattle, WA 98101

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Title 132Q WAC

COMMUNITY COLLEGES—SPOKANE COMMUNITY COLLEGE—SPOKANE FALLS COMMUNITY COLLEGE

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Chapter 132Q-02 WAC
STUDENT RULES

WAC

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WAC 132Q-02-010 Definitions. As used in this chapter, the following words and phrases shall mean:

(1) **Appropriate vice-president—**The chief administrative officer over student services regardless of position title.

(2) **Assembly—**Any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons or group of persons.

(3) **Board—**The board of trustees of Washington State Community College District 17, also known as Community Colleges of Spokane (CCS).

(4) **Chancellor—**Chief executive officer over Community Colleges of Spokane.

(5) **College—**Any community college or center, which may be created by the board of trustees of Community Colleges of Spokane.

(6) **College facilities—**Any or all real property owned, operated, or maintained by the board of trustees of Community Colleges of Spokane, and shall include all buildings and appurtenances affixed thereon or attached thereto.

(7) **College personnel—**Any person employed or representing, on a full-time or part-time basis Community Colleges of Spokane.

(8) **Disciplinary action—**The expulsion, suspension or admonition of any student by the appropriate college president or vice-president for the violation of any designated rule of student conduct for which a student is subject to disciplinary action.

(9) **District—**Washington State Community College District 17, also known as Community Colleges of Spokane (CCS).

(10) **Hazing—**Any method of initiation into a student organization, group or pastime or amusement engaged in with respect to such an organization or group that causes or is likely to cause bodily harm or serious mental or emotional

harm to any student or other person attending any institution of higher education or post-secondary institution. Excluded from this definition are "customary athletic events or other similar contests or competitions."

(11) **Immediate summary suspension—**Immediate suspension from the college due to student presenting imminent danger to himself/herself or other persons on college facilities or to the educational process of the college.

(12) **Instructional day—**Any regularly scheduled instructional day designated in the academic year calendar, including summer quarter, as a day when classes are held or during final examination week. Saturdays and Sundays are not regularly scheduled instructional days.

(13) **Others—**Any person other than a student or college personnel visiting, attending or speaking within the college community.

(14) **Personally identifiable information—**Information which includes either (a) the name of the student, the student's parent, or other family member(s), (b) the address of the student's or student's family, (c) a personal identifier such as the student's social security number or student identification number, (d) a list of personal characteristics which would make it possible to identify the student with reasonable certainty, or (e) other information which would make it possible to identify the student with reasonable certainty.

(15) **President—**Unless otherwise designated shall mean the duly appointed president, chief executive of any college, instructional unit of Community Colleges of Spokane.

(16) **RCW—**The Revised Code of Washington.

(17) **Student—**Any person who is or has been officially registered at any college or instructional unit with Community Colleges of Spokane and with respect to whom the college maintains educational records or personally identifiable information.

(18) ***Student Rights and Responsibilities*—**Rules regulating student conduct as adopted in this chapter.

(19) **WAC—**The Washington Administrative Code.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-010, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-020 Purpose for adoption of student rules. (1) All colleges administered by the board of trustees for Community Colleges of Spokane are maintained by the state of Washington for the accomplishment of certain special purposes; namely, the provision of programs of instruction in higher education, the advancement of knowledge through scholarship and research, and the provision of related community services. Like any other social institution having its own special purpose, a college must maintain conditions conducive to the effective performance of its functions. Consequently, the college has special expectations regarding the conduct of the various participants in the academic community. Student conduct, which distracts from or interferes with accomplishment of college purposes, is not acceptable.

(2) Admission to a college within the district carries with it the presumption that students will conduct themselves as responsible members of the academic community. This includes an expectation that students will obey the law, comply with rules and regulations of the college and its departments, maintain a high standard of integrity and honesty and respect the rights, privileges and property of other members of the college community.

(3) It is assumed that students are and wish to be treated as adults. As such, students will accept responsibility for their conduct. In order to accomplish educational purposes of the college and also to provide students a full understanding of the rules that will enable the college to maintain conditions conducive to the effective performance of the college's functions, the following rules regarding the conduct of students are hereby adopted. Sanctions for violations of the rules of student conduct herein adopted will be administered by the college in the manner provided by said rules. When violations of laws of the state of Washington and/or the United States are also involved, the college may refer such matters to proper civil authorities. In case of minors, this conduct may be referred to parents or legal guardians.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-020, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-030 Jurisdiction. All rules herein adopted concerning student conduct and discipline shall apply to every student attending a community college within Community Colleges of Spokane whenever said student is engaged in or present at any approved college-related activity occurring on or off college facilities. Facilities includes locations in which students are engaged in official college activities such as training internships, cooperative and distance education, practicums, supervised work experiences or any other college sanctioned social or club activities.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-030, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-040 Student misconduct. Misconduct for which the campuses may impose sanctions and/or disciplinary action includes, but is not limited to, any of the following:

(1) The intentional or repeated obstruction or disruption of teaching, research, administration, disciplinary proceedings or other campus activities, including public service function and other authorized activities on campus premises;

(2) Academic dishonesty, as described in WAC 132Q-02-050, to include cheating, plagiarism, or knowingly furnishing false information to any campus or district employee;

(3) Failure to comply with the direction of campus officials acting in the legitimate performance of their duties or failure to properly identify oneself to those persons when requested to do so;

(4) Intentional physical or verbal abuse, threats, intimidation, harassment, coercion and/or other conduct, including disorderly, lewd or indecent behavior directed at another person which has the purpose or effect of creating a hostile, intimidating or disruptive learning or working environment at any campus-sponsored or campus-supervised function;

(5) Violating any of the computer and electronic information, including internet access systems use policies, rules, regulations, guidelines and laws applicable to the district, college or department of the college which include prohibitions against use for commercial benefit or gain and department restrictions prohibiting access into sexually explicit internet sites;

(6) Engaging in any behavior which threatens and/or endangers the health or safety of any person on campus premises, presents an imminent danger to him or herself, another or the college community, disrupts the normal operations of the college and/or infringes on the rights of other members of the college community;

(7) Aiding, abetting or procuring another person in behavior that is prohibited by any section of the Student Misconduct;

(8) Engaging in unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature where such behavior offends a reasonable, orderly, prudent person under these circumstances;

(9) Smoking and/or the use of chewing tobacco inside campus buildings and campus vehicles or in other unauthorized campus areas;

(10) Using, possessing, selling or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of the regulation, "sale" shall include the statutory meaning defined in RCW 69.50.410 and 69.04.005;

(11) Using, possessing, consuming or being demonstrably under the influence of, or selling any alcoholic beverage, except as a participant of legal age in a student program, banquet or educational program which has the special written authorization of the college president or his/her designee;

(12) The intentional making of false statements and/or filing of false charges against the colleges and/or members of the district community;

(13) Forgery, alteration or misuse of district documents, records, funds or instruments of identification, including electronic hardware, software and information systems and applications with the intent to defraud;

(14) Theft of or attempted or actual damage to property of the college, a member of the college community, other personal or public property, or possession of property stolen from college premises and/or a member of the college community while on college premises;

(15) Unauthorized use of, access to, or entry of college facilities or property, tangible or intangible, or any violation of college rules regarding such use, access or entry;

(16) Engaging in any prohibited discriminatory or harassing behavior as defined by applicable law and/or district policies including stalking or hate activity as defined by law;

(17) Conducting or participating in an assembly, which violates the guidelines of assembly as defined in WAC 132Q-07-020 of this administrative code;

(18) Hazing in any form as described in RCW 28B.10.901. No student, or other person in attendance at any public or private institution of higher education, or any other postsecondary educational institution, may conspire to engage in hazing or participate in hazing of another. Any method of initiation into a student organization, pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause bodily or serious mental or emotional harm to any student or other person. Excluded from this definition are "customary athletic events or other similar contests or competitions."

(19) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or other device established for the safety of individuals and/or college facilities;

(20) Possessing, transporting, or storing any weapons, explosives, dangerous chemicals or other weapons, including knives. Illegal possession of weapons or unauthorized use or possession of any device or substance that can be used to inflict bodily harm or to damage real or personal property. This does not apply to commissioned police officers as prescribed by law;

(21) Violating any other provision of the *Student Rights and Responsibilities* Handbook.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-040, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-050 Academic dishonesty. Academic dishonesty includes cheating, plagiarism, or knowingly furnishing false information to the college or district. Acts of dishonesty are serious breaches of honor and shall be dealt with in the following manner:

(1) Any student who commits or aids and abets the accomplishment of an act of academic dishonesty shall be subject to disciplinary action;

(2) The class instructor is responsible for handling each case of dishonesty in the classroom except where a major or repeated offense is involved. In cases of academic dishonesty, the instructor may or may not dismiss the student from class and/or adjust the student's grade and/or determine appropriate action. If the instructor and the department chair concur that a case should be referred for further college action (which could include suspension or expulsion from the college), the matter is referred to the appropriate vice-president, who may convene the college disciplinary committee. Any action relating to academic dishonesty, including action adjusting the student's grade, is subject to appeal by the student as in any other case of academic grievance.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-050, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-060 Classroom conduct/learning environment. Instructors have the authority to take appropriate action to maintain order and proper conduct in the classroom and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

An instructor has the authority to exclude a student from any single class/program session during which the student is so disorderly or disruptive that it is difficult or impossible to maintain classroom decorum. The instructor shall report any such exclusion from class/program to the appropriate vice-president or designee. The appropriate vice-president or designee may initiate disciplinary action as provided in this procedure.

Bringing any person, thing or object to a teaching and learning environment, that may disrupt the environment or cause a safety or health hazard, without the express approval of the faculty member or other authorized official, is expressly prohibited.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-060, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-070 Authority to suspend. Each faculty member or administrator has the right to suspend any student from any single class or program, up to three instructional days, if misconduct disrupts any college class, program or the learning and teaching environment by engaging in conduct that renders it difficult or impossible to maintain the decorum of the class, program or teaching and learning environment. Such suspension may include exclusion from the college, or any part thereof, during the period of suspension. The faculty member or administrator shall report this suspension to the appropriate vice-president who may set conditions for the student upon return. The student may appeal to the appropriate vice-president and that vice-president may authorize an earlier return by the student only after consultation with the faculty member or appropriate administrator.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-070, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-080 Conduct at college functions. College personnel have the right to remove or have removed from a college function and/or the college, for up to three instructional days, any student who, by an act of misconduct, substantially disrupts any college function by engaging in conduct that renders it difficult or impossible to continue such function in an orderly manner.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-080, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-090 Other punishable acts. Any student who commits any other act on college facilities which is punishable as a misdemeanor or a felony under the laws of the state of Washington and/or the United States and which act is not a violation of any other provision of the *Student Rights and Responsibilities* Handbook, shall be subject to disciplinary action.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-090, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-100 Hazing. Hazing is prohibited. Other sections of the *Student Rights and Responsibilities* Handbook may be applicable to hazing violations. Hazing violations are also misdemeanors punishable under state criminal law according to RCW 9A.20.021

Penalties for Hazing: Any organization, association or student group that knowingly permits hazing shall:

a) Be liable for harm caused to persons or property resulting from hazing; and

b) Be denied recognition by Community Colleges of Spokane as an official organization, association or student group on any campus of CCS. If the organization, association or student group is a corporation, whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

A person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for one calendar year.

Forfeiture of state-funded grants, scholarships or awards may continue for an additional calendar year up to and including permanent forfeiture, based upon the seriousness of the violations.

Impermissible conduct not amounting to hazing is subject to sanctions available under the *Student Rights and Responsibilities* Handbook depending upon the seriousness of the violation.

Impermissible conduct associated with initiation into a student organization or group or any pastime or amusement engaged in, with respect to the organization or group, will not be tolerated.

Impermissible conduct, which does not amount to hazing, may include conduct, that causes embarrassment, sleep deprivation, personal humiliation, ridicule or unprotected speech amounting to verbal abuse.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-100, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-110 Disciplinary actions. Disciplinary action, up to and including expulsion from the college, may be imposed upon a student for failure to abide by the rules of student conduct. The form of disciplinary action imposed on the nonabiding student will determine whether, and under what conditions, the violator may continue as a student at the college.

Any of the following disciplinary actions may be imposed upon violators of the *Student Rights and Responsibilities'* rules and regulations established herein: The appropriate vice-president at the remaining college/instructional unit reserves the right to enforce the disciplinary action on his/her campus.

(1) **Disciplinary Warning:** Notice to a student, either verbally or in writing that he/she has violated the rules of student conduct or failed to satisfy the college's expectations regarding conduct. Such warnings imply that continuation or repetition of the specific conduct involved or other misconduct will result in one of the more serious disciplinary actions described in this section.

(2) **Fines:** The office of the appropriate vice-president may assess monetary fines against individual students for violation of the rules of student conduct. Failure to pay such fines promptly will result in the cancellation of the student's registration and will prevent the student from reregistering. Appeal of this action may be made to the president of the college. The decision of the president is final.

(3) **Disciplinary Reprimand:** Formal actions against a student for violation of the rules of student conduct. Reprimands are always made in writing to the student by the officer or agency taking action, with copies to the appropriate vice-president. A reprimand informs the student that continuation or repetition of the specific conduct involved or other misconduct will result in one of the more serious disciplinary actions described in this section.

(4) **Disciplinary Probation:** Formal action placing conditions upon the student's continued attendance for violation of rules of student conduct. The office placing the student on disciplinary probation will specify, in writing, the period of probation and the conditions, such as limiting the student's participation in extracurricular activities. Disciplinary probation may be for a specified term or for an indefinite period, which may extend to graduation or other termination of the student's enrollment in the college. Violation of disciplinary probation shall be cause for further disciplinary action.

(5) **Suspension:** Formal but limited dismissal from the college. Termination of student status for violation of the rules of student conduct. The notification dismissing a student will indicate, in writing, the term of the dismissal and any special conditions that must be met before readmission.

(6) **Expulsion:** This shall result in permanent termination of a student's eligibility for enrollment. Notice of the expulsion and its cause shall be presented in writing.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-110, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-120 Delegation of disciplinary authority. The appropriate vice-president or designee shall have the authority to administer the disciplinary action prescribed in this chapter. The president shall be informed of all student, probation, suspension or expulsion proceedings by the appropriate vice-president.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-120, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-130 Due process. Students have the right to due process. Disciplinary action may not be imposed without notice to the accused of the nature of the charges. Once notified, a student accused of violating the code of conduct is entitled to procedural due process as set forth in these provisions.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-130, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-140 Initiation of disciplinary action. A request for disciplinary action on a student for violation(s) of the rules of student conduct shall be referred in writing to the appropriate vice-president within five instructional days of the violation. Any member of the administration, faculty, college personnel or any student may make such a request. All requests must be in writing and signed by the individual making the request. The appropriate vice-president or designee may decline the request, implement the request or engage in informal negotiations to resolve the situation.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-140, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-150 Composition of college disciplinary committee. Each college shall have a college disciplinary committee composed of six members plus the presiding officer for a total of seven people who shall be chosen no later than October fifteenth of each academic year. The membership shall be selected as follows:

(1) The recognized faculty-negotiating unit shall appoint two members and one alternate who are teaching on the appropriate campus or college; such members shall serve a two-year term.

(2) The college president shall appoint two members from the college administration who shall serve a term as determined by the president.

(3) The respective student governments on each college campus shall appoint student membership. Student membership must include a male and female student and two alternates who shall serve for no more than one year.

(4) The presiding officer of the college disciplinary committee shall be the appropriate vice-president or designee. No person who personally participates in any disciplinary action that is reviewed by the disciplinary committee may serve as presiding officer, nor cast a vote on the merits of the case decided upon by the disciplinary committee pursuant to WAC 132Q-02-180.

(5) No member of the disciplinary committee shall participate in a case in which he/she is witness to or have acted in an advisory capacity.

(6) The chair and members of the committee shall continue in their offices beyond the expiration of their terms until such time as those cases initiated and convened during their term shall be concluded. In no instance shall a new case be presented to a chair whose term has expired.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-150, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-160 Evidence admissible in proceedings. Only those matters presented at the proceeding in the presence of the accused student, except where the student fails to attend after receipt of proper notice, will be considered in determining whether the college disciplinary committee has sufficient cause to believe that the accused student is guilty of a violation of the rules of student conduct.

(1) In determining whether sufficient cause, as stated above, does exist, members of the disciplinary committee shall give consideration to all evidence that serves as proof and is commonly accepted by reasonable, prudent persons in the conduct of their affairs.

(2) The presiding officer of the college disciplinary committee shall consider the rules of privilege recognized by law and exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-160, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-170 Appeal of disciplinary actions. Any disciplinary action taken by the appropriate vice-president or designee may be appealed to the college disciplinary committee. Disciplinary action taken by the college disciplinary committee may be appealed to the president of the college. All appeals by a student must be made in writing to the disciplinary committee or president within seven instructional days after notification of action taken by the disciplinary committee or president.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-170, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-180 Reporting, recording and maintenance of disciplinary records. The office of the appropriate vice-president shall keep all records of disciplinary cases. Except in proceedings where the student is exonerated, all documentary or other physical evidence produced or considered, and all recorded testimony in disciplinary proceedings shall be preserved consistent with guidelines for student education records. No record of proceedings where the student is exonerated, other than the fact of exoneration, shall be maintained in the student's file or other college repository after the date of the student's graduation.

The office of the appropriate vice-president shall keep accurate records of all disciplinary actions taken by or reported to that office. All disciplinary action will be entered on the student's record and may be removed at the time of graduation or earlier, at the discretion of the office or individual initiating the action, if special terms and conditions have been met or if other circumstances warrant the removal. A student may petition to that office or individual for removal of such a notation at any time. Otherwise the record of disciplinary action shall be part of that student's record.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-180, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-190 Initial college disciplinary proceedings. (1) Any student accused of violating any provisions of the *Student Rights and Responsibilities* will be called for an initial conference with the appropriate vice-president or designee, and will be informed of what provision(s) of the rules of student conduct the student is charged with violating, and the maximum penalties which might result if the charge is substantiated after consideration in a disciplinary proceeding.

(2) After considering the evidence in the case and interviewing the student or students accused of violating the rules of student conduct, the appropriate vice-president or designee, may take any of the following actions:

(a) Terminate the proceeding, exonerating the accused student(s);

(b) Dismiss the case after appropriate counseling and/or advice;

(c) Impose minor sanctions directly (warning, reprimand, disciplinary probation or fine) or such sanctions the student may agree to in writing. These sanctions are subject to the student's rights of appeal as described below;

(d) Refer the matter to the college disciplinary committee for appropriate action. The student shall be notified in writing, within three instructional days, when such a referral is made.

(e) Issue an order of dismissal pursuant to the conditions of WAC 132Q-02-110(4).

(f) Issue an order of expulsion pursuant to the conditions of WAC 132Q-02-110(6).

(3) A student accused of violating any of the rules of student conduct shall be given written notification of any disciplinary action taken by the appropriate vice-president or designee. In the case of an unmarried student under eighteen years of age, written notification of the disciplinary action taken by the appropriate vice-president or designee, shall also be sent to the student's parent(s) or legal guardian(s) under the provisions of the Family Education Rights and Privacy Act (FERPA).

No disciplinary action recommended by the appropriate vice-president or designee, is final unless the student fails to exercise his right of appeal as provided in WAC 132Q-02-200.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-190, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-200 College disciplinary committee proceedings. (1) The college disciplinary committee for each college will reexamine all disciplinary cases referred to it by the appropriate vice-president or designee. The student shall be accorded a fair and impartial hearing before the disciplinary committee on any charge of misconduct referred to the committee for initial hearing or appeal. The student's failure to cooperate with the hearing procedures hereinafter outlined, however, shall not prevent the disciplinary committee from making its findings, conclusions and recommendations as provided hereafter. Failure by the student to cooperate may be taken into consideration by the committee.

(2) The student shall be given written notice of the time and place of the proceeding before the college disciplinary committee by registered or certified mail to the student's last known address or presented to the student in person by an appropriate campus official, or any other reasonable means of communication and be afforded not less than twenty days notice. The notice shall contain:

(a) The time and place of the proceeding.

(b) An outline of the charges, a list of witnesses who will appear, a description of any documentary, or other evidence that will be presented at the hearing.

(c) The notice may be amended at any time prior to the hearing but if such amendment is prejudicial to the student's case, the hearing date shall be rescheduled to a later date.

In no case shall efforts to avoid receipt of notice be allowed to interrupt the process of the proceeding.

(3) The student shall be entitled to hear and examine the evidence brought forth and be informed of the identity of its source and shall be entitled to present evidence and witnesses on their own behalf and to cross-examine witnesses appearing as to factual matters. The student shall have the opportunity to request the presence of witnesses or production of other evidence relevant to the issues of the proceedings.

(4) A college representative shall present the evidence and witnesses alleging that the student engaged in misconduct. Only those matters presented at the hearing will be considered in the decision of the committee, but the student's past record of conduct may be taken into account in formulating the committee's recommendations for disciplinary action

(5) The student may choose to be represented or accompanied by legal counsel and/or accompanied by an advisor, however, counsel cannot speak at the proceeding. Should the student elect representation by legal counsel, the campus official initiating the charges may also be represented by legal counsel. If the student elects to choose a duly licensed attorney admitted to practice in the United States as counsel, the student must provide three days' notice excluding weekends and holidays to the appropriate vice-president.

(6) No one will be required to give self-incriminating evidence.

(7) In all disciplinary proceedings the college may be represented by a designee appointed by the appropriate vice-president; said designee may then present the college's case against the student accused of violating the rules of student conduct, provided that in those cases in which the student elects to have a licensed attorney present, the appropriate vice-president may elect to have an assistant attorney general attend as well.

(8) An adequate summary of all the evidence and facts presented to the disciplinary committee during the course of the proceedings will be taken. A student's disciplinary record is subject to FERPA and WAC 132Q-06-035.

(9) The presiding officer of the college disciplinary committee shall preside at the disciplinary proceeding and make rulings on all evidentiary procedural matters heard in the course of the disciplinary proceeding.

(10) The student will be provided with a copy of the findings, conclusions and sanctions if any imposed. The student will also be advised of the right to appeal the committee's decision in a written statement to the president within five instructional days.

(11) If there is no appeal to the president, the sanction shall be in effect at the end of the five instructional day appeal period or at such other time as may be indicated by the committee.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-200, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-210 Conduct at disciplinary proceedings. Proceedings conducted by the college disciplinary committee generally will be held in closed session, except when a student requests that persons other than those directly involved be invited to attend. Such requests shall be made to the chair at least three instructional days in advance of the hearing. The chair may exclude any persons that disrupt the proceedings from the hearing room and may limit the number of persons who may attend in order to afford safety and orderliness to the participants in the proceedings.

Any student attending the disciplinary committee proceeding as an invited guest who continues to disrupt said proceedings after the presiding officer of the committee has asked him/her to cease and desist such activity, shall be subject to disciplinary action.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-210, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-220 Decision of the college disciplinary committee. Upon conclusion of the disciplinary proceeding, the college disciplinary committee shall consider all the evidence presented and decide by majority vote of the members of the committee which of the following is to be taken:

(a) Terminate the proceedings and exonerate the student(s);

(b) Impose disciplinary actions as provided in WAC 132Q-02-110.

The campus shall in no case proceed with a sanction that, in fact or appearance, duplicates punishment for the same offense unless the interests of the campus are implicated in some separate way by the violation of law.

If a violation of civil law occurs on campus and is also a violation of a published campus regulation, the campus may institute its own proceedings against the offender if the campus interest involved is clearly distinct from that of the outside community.

If a student is charged with an off-campus violation of law, the matter shall be of no disciplinary concern to the campus unless the student is incarcerated and unable to comply with academic requirements.

The student will be provided with a copy of the committee's findings and conclusions regarding whether the student did violate any rule or rules of the code of student conduct. The committee shall also advise the student of the right to present, within five instructional days, a written statement to the president of the college appealing the decision of the college disciplinary committee.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-220, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-230 Appeal proceedings. (1) All appeals must be submitted to the appropriate vice-president, in writing, within ten instructional days.

(2) The college disciplinary committee shall hear appeals of initial disciplinary decisions.

(3) The college president or designee shall hear appeals of the college disciplinary committee's decisions.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-230, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-240 Readmission after suspension. Any student suspended from the college for disciplinary reasons may apply for readmission by filing requests in writing with the office or individual, which initiated the action resulting in the suspension. Such petitions must indicate how specified conditions have been met and, if the term of the suspension has not expired, any reasons which support a reconsideration of the matter. Because the president of the college participates in all disciplinary actions suspending students from the college, decisions on such petitions of readmission must be reviewed and approved by the president before readmission is granted.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-240, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-250 Emergency authority of the college president. Ordinarily, disciplinary actions will be imposed only after the appropriate informal or formal hearing procedures have been invoked. However, the college president or his/her authorized representative, by virtue of the authority delegated to him/her by the board of trustees under conditions which the president or authorized representative deems to be an emergency situation, may suspend the student from participation in any or all college privileges, pending the completion of the college disciplinary proceedings outlined herein, in order to protect the safety and property of members of the college community or to assure the college's ability to function. In any case in which this provision is invoked, the student(s) in question are entitled to an early hearing before the appropriate vice-president, designee or duly appointed committee.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-250, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-260 Purpose of immediate summary suspension rules. (1) The board of trustees of Community Colleges of Spokane recognizes the need to provide the college's administrators with an immediate system of student discipline that can swiftly and fairly respond to disorder on all district property. The board further desires to create and operate such a system within the framework of due process as presently embodied in the concept of a temporary restraining order.

(2) It is to be understood, however, that nothing within the rules adopted in this chapter shall be construed to replace the provisions of the rules of student conduct and procedures of enforcement included in chapter 132Q-02 WAC and the student disciplinary system created therein. Rather, the provisions of the rules of this chapter shall be deemed to be supplementary to the rules of student conduct by providing a method of suspension during the pending investigation and prosecution for student violations that will be subsequently heard on their merits pursuant to the system included in the rules of student conduct.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-260, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-270 Initiation of immediate summary suspension proceedings. If the president or designee has cause to believe that any student has violated any rule of student conduct contained in chapter 132Q-02 WAC, and the president or designee has further cause to believe that the student's violation has a significant probability of continuing to disrupt the educational environment of the college, then the president or designee shall, pursuant to the following rules, have authority to suspend the student for a maximum of ten instructional days prior to any subsequent disciplinary proceeding initiated under the rules of student conduct contained in 132Q-02 WAC.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-270, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-280 Notice of immediate summary suspension proceedings. (1) If the president desires to exercise the authority conferred by WAC 132Q-02-140 against any student, he or she shall direct the appropriate vice-president to provide written notice to the student.

(2) The notice shall be entitled "notice of summary suspension proceeding" and shall include the charges against the student, including reference to the law and/or rules of student conduct involved and that the student charged must appear before the appropriate vice-president or designee, at a time to be set by the vice-president.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-280, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-290 Procedures of immediate summary suspension proceedings. (1) At the immediate summary suspension proceeding, the college, through the office of the appropriate vice-president or designee, shall make a determination as to whether there is probable cause to believe that the violation did occur, as stated in the notice of summary suspension proceedings to the student.

(2) The student may offer oral testimony of himself/herself or another person, submit any statement or affidavit on his/her own behalf, examine any affidavit and cross-examine any witness who may appear against him/her.

(3) The appropriate vice-president shall, at the time of the immediate summary suspension proceeding, determine whether there is probable cause to believe that a violation of law or of the rules of student conduct has occurred, pursuant to WAC 132Q-02-220 (1) or (2). In the course of making such a decision, the vice-president may only consider the sworn affidavit or oral testimony of persons who have made the allegation and the oral testimony and affidavits submitted by the student charged.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-290, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-300 Decision by vice-president. If the appropriate vice-president, following the conclusion of the immediate summary suspension proceeding, finds that there is probable cause to believe that:

(1) The accused student has committed one or more violations of law or rules of student conduct upon any person or college facility, and

(2) That immediate summary suspension of the accused student is necessary to attain peace and order on the campus; and

(3) Such violation(s) of the rules of student conduct constitutes grounds for disciplinary probation or dismissal pursuant to WAC 132Q-02-110.

The appropriate vice-president may then, with the written approval of the president, suspend the student from college pending any subsequent disciplinary proceeding initiated under chapter 132Q-02 WAC or reinstate the student with or without conditions.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-300, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-310 Notice of immediate summary suspension. (1) If a student is suspended pursuant to the above rules, he/she will be provided with a written copy of the appropriate vice-president's findings as to whether the vice-president had probable cause to believe that the conditions for immediate summary suspension outlined in WAC 132Q-02-200 exist and to whether immediate suspension of the accused student should be issued.

(2) The student suspended in accordance to this rule shall be served a written copy of the notice of suspension by personal service or by registered mail. Notice by mail shall be sent to the student's last known address. The suspension shall be effective for the period dating from the day the notice of suspension is mailed or personal service accomplished.

(3) During the period of immediate summary suspension, the suspended student shall not enter the campus other than to meet with the appropriate vice-president or to attend the summary suspension proceeding. However, the appropriate vice-president may grant the student special permission to enter for the express purpose of meeting with faculty, college personnel, or students in preparation for the proceeding.

(4) The appropriate vice-president at the remaining college reserves the right to enforce the immediate suspension on their campus.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-310, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-320 Failure to appear. If the accused student has been served in accordance with the notice required in WAC 132Q-02-170, fails to appear at the time designated for the immediate summary suspension proceeding, the appropriate vice-president may, with the written con-

currence of the president, continue with the proceedings under WAC 132Q-02-180.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-320, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-330 Appeal of immediate summary suspension. (1) Any student aggrieved by an order issued at the immediate summary suspension proceeding may appeal the suspension to the board of trustees. No such appeal shall be entertained, however, unless written notice of the appeal, specifically describing alleged errors in the findings of the appropriate vice-president and the president, is tendered at the office of the president within seventy-two hours following the date the written notice of immediate summary suspension was served or mailed to the student.

(2) The board shall, as soon as reasonably possible, examine the allegations contained within the notice of appeal, along with the findings of the vice-president and president, the record of the immediate summary suspension proceeding, and determine whether the immediate summary suspension order is justified. Following such examination, the board of trustees may, at its discretion, uphold the decision or overturn the immediate summary suspension pending determination of the merits of the disciplinary proceeding pursuant to the rules of student conduct.

(3) The board shall notify, by registered or certified mail, the appealing student within forty-eight hours following its consideration of the notice of appeal, as to whether the immediate summary suspension shall be upheld or stayed pending disposition of the disciplinary proceeding pursuant to the rules of student conduct.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-330, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-340 Immediate summary suspension proceedings not duplicative. (1) As indicated in WAC 132Q-02-110, the immediate summary suspension proceeding shall in no way be substituted for the disciplinary proceedings provided for in the rules of student conduct, chapter 132Q-02 WAC. At the end of the suspension, the student suspended shall be reinstated to full rights and privileges as a student, subject to whatever sanctions may have been or may be in the future imposed pursuant to the rules of student conduct or these rules of immediate summary suspension.

(2) Any disciplinary proceeding initiated against the student because of violations alleged against another student in the course of the immediate summary suspension proceeding provided for herein, shall be reexamined; provided, that the records made and evidence presented during the course of any aspect of an immediate summary suspension proceeding brought against the student shall be available for the use of the accused student and of the college in a disciplinary proceeding initiated under the rules of student conduct.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-340, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-350 Confidentiality of student records. Community Colleges of Spokane continually receives requests from outside sources for information about students, both past and present. College personnel are reminded that Public Law 93-380, the Family Educational Rights and Privacy Act (FERPA) of 1974 states that colleges adopt a policy on student education records to insure that information contained in such records is treated in a responsible manner with due regard to the personal nature of the information contained in these records. In order to prevent embarrassment or possible legal involvement of District 17 and its employees, because of improper disclosure of information, it is imperative that FERPA be implemented in the release of such information.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-350, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-360 Education records—Student's right to inspect. (1) A student has the right to inspect and review his/her education records.

(a) For purposes of this section the term "education records" means those records, files, documents, and other materials which contain information directly related to a student, including records regarding the employment of a student when such employment is a result of, and directly related to, student status.

(b) The term "education records" does not include:

(i) Records of instructional, supervisory and administrative personnel and educational personnel which are in the sole possession of the originator and which are not accessible or revealed to any other person except a substitute or designee.

(ii) Records of the campus security department, which are kept apart from those records described in subsection (a) and which are maintained solely for law enforcement purposes are not made available to persons other than law enforcement officials of the same jurisdiction.

(iii) In the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business, which relate exclusively to such person's employment, are not available for use for any other purpose.

(iv) Student records containing medical/psychological information are not available to anyone other than the individual(s) providing treatment; however, such records may be personally reviewed by a physician or other appropriate professional upon the student's written consent.

(2)(a) Recommendations, evaluations or comments concerning a student that are provided in confidence, either expressed or implied, as between the author and the recipient, shall be made available to the student, except as provided in (b), (c) and (d) of this subsection.

(b) The student may specifically release his or her right to review where the information consists only of confidential recommendations respecting:

(i) Admission to any educational institution; or

(ii) An application for employment: or

(iii) Receipt of an honor or honorary recognition.

(c) A student's waiver of his or her right to access confidential statements shall apply only if:

(i) The student is, upon request, notified of the names of person(s) making confidential statements concerning him or her; and

(ii) Such confidential statements are used solely for the purpose for which they were originally intended; and

(iii) Such waivers are not required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from the college/instructional unit.

(d) Recommendations, evaluations or comments concerning a student that have been provided in confidence, either expressed or implied, as between the author and the recipient, prior to January 1, 1975, shall not be subject to release under (a) of this subsection. Such records shall remain confidential and shall be released only with the consent of the author. The institution shall use these records only for the purpose for which they were originally intended.

(3) Where requested records or data include information on more than one student, the student shall be entitled to receive or be informed of only that part of the record or data that pertains to himself/herself.

(4) The office of the appropriate vice-president is the official custodian of academic records; and, therefore, is the only office who may issue an official transcript of the student's academic record.

(5) Student educational records may be destroyed in accordance with a department's routine retention schedule. In no case will any record which is requested by a student for review in accordance with this section and WAC 132Q-02-270 be removed or destroyed prior to providing the student access.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-360, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-370 Records requests and appeals. (1) A request by a student for review of information shall be made in writing to the college individual(s) or office(s) having custody of the particular record. Any challenge to the contents of educational records shall be addressed by means of a brief adjudicative proceeding.

(2) An individual(s) or office(s) must respond to a request for education records within a reasonable period of time, but in no case more than forty-five days after the request has been made. A college individual(s) or office(s) which is unable to comply with a student's request within the above-stated time period shall inform the student of that fact and the reason(s) in writing.

(3)(a) A student who feels that his/her request has not been properly answered by a particular individual(s) or office(s) should contact the appropriate vice-president, associate dean, director, assistant dean, or individual(s) or office(s) responsible for mediation.

(b) In cases where a student remains dissatisfied after consulting with the appropriate vice-president, director, assistant dean or associate dean, the student may then request a proceeding by the college records committee. Following the proceeding, the college's records committee shall render its decision within a reasonable period of time. In all cases, the decision of the college's records committee shall be final.

(c) In no case shall any request for review by a student be considered by the college's records committee, which has not been filed with that body in writing within ninety days from the date of the initial request to the custodian of the record.

(d) The college's records committee shall not review any matter regarding the appropriateness of official academic grades.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-370, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-380 Release of personally identifiable records. (1) The college shall not permit access to or the release of education records or personally identifiable information contained therein, other than "directory information," without the written consent of the student, to any party other than the following:

(a) College personnel and students when officially appointed to a faculty council or administrative committee, when the information is required for a legitimate educational interest within the performance of their responsibilities to the college, with the understanding that its use will be strictly limited to the performance of those responsibilities.

(b) Federal and state officials requiring access to education records in connection with the audit and evaluation of a federally supported or state-supported educational program or in connection with the enforcement of the federal or state legal requirements which relate to such programs. In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parent(s) to other than those officials and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation or enforcement of legal requirements.

(c) Agencies or individual's requesting information in connection with a student's application for or receipt of financial aid.

(d) Organizations conducting studies for or on behalf of the college for purposes of developing, validating or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than the representatives of such organizations, and such information will be destroyed when no longer needed for the purposes for which it was provided.

(e) Accrediting organizations in order to carry out their accrediting functions.

(f) Any person or entity designated by judicial order or lawfully issued subpoena, upon condition that the student is notified of all such orders or subpoenas in advance of the compliance unless the court or other issuing agency orders the college not to notify the student before compliance with the subpoena. The college president, the president's designee, or office(s) receiving a subpoena or judicial order for education records should immediately notify the attorney general.

(g) Parents transfer their rights under FERPA to their child when he/she reaches 18 years of age or attends an institution of postsecondary education. Parents of college students, who request to review their "adult child's" record, must provide documented "dependency status" under Internal Revenue Service (IRS) regulations or have written consent from the student. The final decision whether or not to disclose information about students to their parents is a matter of the institution's policy.

(2) Where the consent of a student is obtained for the release of education records, it shall be in writing, signed and dated by the person giving such consent, and shall include:

(a) A specification of the records to be released;

(b) The reasons for such release; and

(c) The names of the parties to whom such records will be released.

(3) In cases where records are made available without student release as permitted by subsection (1)(b), (c), (d), (e) and (f), the college shall maintain a record kept with the education record released which will indicate the parties which have requested or obtained access to a student's records maintained by the college and which will indicate the legitimate interest of the investigating party. Releases in accordance with subsection (1)(a) need not be recorded.

(4) Personally identifiable education records released to third parties, with or without student consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally identifiable form to any other parties without obtaining consent of the student.

(5) The term "directory information" used in subsection (1) is defined as information contained in an educational record of a student that would not be generally considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., undergraduate or graduate; full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended by the student.

(3) Students may request in writing that the college not release directory information through written notice to the appropriate vice-president.

(4) Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other person(s).

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-380, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-390 College records. All college individual(s) or office(s) that have custody of education records will develop procedures in accord with WAC 132Q-02-250 through 132Q-02-300. Any supplementary regulations found necessary by departments will be filed with the college's records committee, which will be responsible for periodic review of policy and procedures.

(1) Disciplinary records shall be kept separate from academic records, and transcripts of a student's academic record shall contain no notation of any disciplinary action. Special precautions shall be exercised to insure that information from disciplinary or counseling files is not revealed to unauthorized persons. Provisions shall be made for periodic review and routine destruction of inactive disciplinary records by offices maintaining such records.

(2) No records shall be kept that reflect a student's political or ideological beliefs or associations.

(3) Entities within Community Colleges of Spokane share education records.

(4) Students requesting an official copy of their educational transcripts must provide a written request including name, address, student identification number and where the transcript is to be sent.

(5) A processing fee will be assessed for any official transcript sent to institutions outside the jurisdiction of Community Colleges of Spokane.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-390, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-400 Records committee. Each college shall have a college records committee composed of the appropriate vice-president or designee, one student, one faculty and one staff member who shall be appointed by the college president no later than October fifteenth of each academic year. The college's records committee shall be responsible for reviewing unusual requests for information and for assisting in the interpretation of these rules. The committee shall also be responsible for hearing appeals as defined in WAC 132Q-02-380.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-400, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-410 Eligibility for clinical programs. Any student who fails to comply with the requirements to be eligible for required clinical programs shall be subject to disciplinary action. Requirements may include, but are not limited to, the student having a record of current immunizations and a physical examination, TB test, CPR proficiency, state patrol clearance, proof of liability and medical and accident insurance coverage.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-410, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-420 Grounds for athletic ineligibility. Any student found by Community Colleges of Spokane to have violated chapter 69.41 RCW by virtue of a criminal conviction or otherwise insofar as it prohibits the possession, use or sale of legend drugs, including anabolic steroids, will be disqualified from participation in any college sponsored athletic event or activity.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-420, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-430 Right to brief adjudicative procedure—Athletics. Any student notified of a claimed violation of WAC 132Q-02-040 shall have the right to a brief adjudicative hearing. The appropriate vice-president must receive a written request for such a hearing within three instructional days of receipt of a declaration of further athletic ineligibility. If a written request is not received within three instructional days after receipt of the declaration of athletic ineligibility, the student will be deemed to have waived any right to a brief adjudication hearing and will be declared ineligible from further participation in college sponsored athletic events or activities.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-430, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-440 Brief adjudicative procedure—Athletics. If a timely written request for a hearing is made, the appropriate vice-president shall designate a presiding officer who shall be a college administrator who is not involved with the athletic program to conduct the brief adjudicative proceeding. The presiding officer shall promptly conduct the hearing and permit affected parties to explain both the college's view of the matter and the student's view of the matter. The brief adjudicative proceeding shall be conducted in accordance with the Administrative Procedure Act, RCW 34.05.482-[34.05].494.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-440, filed 8/25/03, effective 9/25/03.]

WAC 132Q-02-450 Brief adjudicative decision—Athletics. The college administrator who acts as presiding officer shall issue a written decision, which shall include a brief statement of the reasons for the decision and a notice that judicial review may be available. All documents presented, considered or prepared by the presiding officer shall be maintained as the official record of the brief administrative proceeding. A decision must be promptly rendered after the conclusion of the proceeding and in no event later than twenty instructional days following the request for a brief adjudicative proceeding is received by the appropriate vice-president.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-02-450, filed 8/25/03, effective 9/25/03.]

Chapter 132Q-03 WAC
STUDENT ATHLETIC PARTICIPATION

WAC

132Q-03-005 through 132Q-03-030 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132Q-03-005 Grounds for ineligibility. [Statutory Authority: RCW 28B.50.140. 91-17-075, § 132Q-03-005, filed 8/21/91, effective 9/21/91.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-03-010 Right to brief adjudicative procedure. [Statutory Authority: RCW 28B.50.140. 91-17-075, § 132Q-03-010, filed 8/21/91, effective 9/21/91.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-03-020 Brief adjudicative procedure. [Statutory Authority: RCW 28B.50.140. 91-17-075, § 132Q-03-020, filed 8/21/91, effective 9/21/91.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-03-030 Decision. [Statutory Authority: RCW 28B.50.140. 91-17-075, § 132Q-03-030, filed 8/21/91, effective 9/21/91.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

WAC 132Q-03-005 through 132Q-03-030 Repealed. See Disposition Table at beginning of this chapter.

Chapter 132Q-04 WAC
STUDENT RULES OF CONDUCT AND PROCEDURES FOR ENFORCEMENT

WAC

132Q-04-010 through 132Q-04-280 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132Q-04-010 Purpose for adoption of student rules. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-010, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-04-010, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-010, filed 9/14/84; Order 1-69, § 132Q-04-010, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-020 Definitions. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-020, filed 6/26/00, effective 7/27/00; 92-14-038, § 132Q-04-020, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-04-020, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-020, filed 9/14/84; Order 70-1, § 132Q-04-020, filed 9/22/70; Order 1-69, § 132Q-04-020, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-030 Jurisdiction. [Statutory Authority: RCW 28B.50.140. 87-16-010 (Resolution No. 27), § 132Q-04-030, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-030, filed 9/14/84; Order 1-69, § 132Q-04-030, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-031 Prohibited conduct. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-031, filed 6/26/00, effective 7/27/00.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-076 Hazing prohibited. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-076, filed 6/26/00, effective 7/27/00. Statutory Authority: RCW 28B.10.903. 95-16-066, § 132Q-04-076, filed 7/28/95, effective 8/28/95.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-077 Penalties for hazing. [Statutory Authority: RCW 28B.10.903. 95-16-067, § 132Q-04-077, filed 7/28/95, effective 8/28/95.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-078 Sanctions for impermissible conduct not amounting to hazing. [Statutory Authority: RCW 28B.10.903. 95-16-068, § 132Q-04-078, 7/28/95, effective 8/28/95.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-097 Eligibility for clinical programs. [Statutory Authority: RCW 28B.50.140(13). 95-03-060, § 132Q-04-097, filed 1/12/95, effective 2/12/95.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-100 Right of assembly. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-100, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-04-100, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-100, filed 9/14/84; Order 1-69, § 132Q-04-100, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-105 Other punishable acts. [Statutory Authority: RCW 28B.50.140. 87-16-010 (Resolution No. 27), § 132Q-04-105, filed 7/23/87.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-110 Commercial activities. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-110, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-04-110, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-110, filed 9/14/84; Order 1-69, § 132Q-04-110, filed 12/8/69.] Repealed by 03-18-021, filed

8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-120 Outside speakers. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-120, filed 6/26/00, effective 7/27/00; 92-14-038, § 132Q-04-120, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-04-120, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-120, filed 9/14/84; Order 1-69, § 132Q-04-120, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-130 Trespass. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-130, filed 6/26/00, effective 7/27/00; 92-14-038, § 132Q-04-130, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-04-130, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-130, filed 9/14/84; Order 1-69, § 132Q-04-130, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-140 Distribution of materials. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-140, filed 6/26/00, effective 7/27/00; 92-14-038, § 132Q-04-140, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-04-140, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-140, filed 9/14/84; Order 1-69, § 132Q-04-140, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-150 Right to demand identification. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-150, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-04-150, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-150, filed 9/14/84; Order 1-69, § 132Q-04-150, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-160 Purpose of disciplinary actions. [Statutory Authority: RCW 28B.50.140. 84-19-029 (Resolution No. 23), § 132Q-04-160, filed 9/14/84; Order 1-69, § 132Q-04-160, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-170 Initiation of prosecution. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-170, filed 6/26/00, effective 7/27/00; 92-14-038, § 132Q-04-170, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-04-170, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-170, filed 9/14/84; Order 1-69, § 132Q-04-170, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-180 Initial disciplinary proceedings. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-180, filed 6/26/00, effective 7/27/00; 92-14-038, § 132Q-04-180, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-04-180, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-180, filed 9/14/84; Order 74-1, § 132Q-04-180, filed 9/23/74; Order 70-1, § 132Q-04-180, filed 9/22/70; Order 1-69, § 132Q-04-180, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-190 Appeals. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-190, filed 6/26/00, effective 7/27/00; 92-14-038, § 132Q-04-190, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-04-190, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-190, filed 9/14/84; Order 1-69, § 132Q-04-190, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-200 Composition of college disciplinary committee. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-200, filed 6/26/00, effective 7/27/00; 92-14-038, § 132Q-04-200, filed 6/24/92, effective 7/25/92; 90-21-016, § 132Q-04-200, filed 10/8/90, effective 11/8/90; 87-16-010 (Resolution No. 27), § 132Q-04-200, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-200, filed 9/14/84. Statutory Authority: RCW 28B.50.140(13). 82-01-034 (Order 81-03, Resolution No. 19), § 132Q-04-200, filed 12/14/81; Order 74-1, § 132Q-04-200, filed 9/23/74; Order 70-1, § 132Q-04-200, filed 9/22/70; Order 1-69, § 132Q-04-200, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-210 Brief adjudicative proceeding. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-210, filed 6/26/00, effective 7/27/00; 92-14-038, § 132Q-04-210, filed 6/24/92, effective 7/25/92; 90-21-016, § 132Q-04-210, filed 10/8/90, effective 11/8/90; 87-16-010 (Resolution No. 27), § 132Q-04-210, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-210, filed 9/14/84; Order 74-1, § 132Q-04-210, filed 9/23/74; Order 70-1, § 132Q-04-210, filed 9/22/70; Order 1-69, § 132Q-04-210, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-220 Conduct of disciplinary proceedings. [Statutory Authority: RCW 28B.50.140. 90-21-016, § 132Q-04-220, filed 10/8/90, effective 11/8/90; 87-16-010 (Resolution No. 27), § 132Q-04-220, filed 7/23/87; Order 1-69, § 132Q-04-220, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-230 Evidence admissible in proceedings. [Statutory Authority: RCW 28B.50.140. 90-21-016, § 132Q-04-230, filed 10/8/90, effective 11/8/90; 87-16-010 (Resolution No. 27), § 132Q-04-230, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-230, filed 9/14/84; Order 70-1, § 132Q-04-230, filed 9/22/70; Order 1-69, § 132Q-04-230, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-240 Decision by the committee. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-240, filed 6/26/00, effective 7/27/00; 90-21-016, § 132Q-04-240, filed 10/8/90, effective 11/8/90; 87-16-010 (Resolution No. 27), § 132Q-04-240, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-240, filed 9/14/84; Order 1-69, § 132Q-04-240, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-250 Final decision regarding appeal of disciplinary committee action. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-250, filed 6/26/00, effective 7/27/00; 92-14-038, § 132Q-04-250, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-04-250, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-250, filed 9/14/84; Order 1-69, § 132Q-04-250, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-260 Disciplinary action. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-260, filed 6/26/00, effective 7/27/00; 92-14-038, § 132Q-04-260, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-04-260, filed 7/23/87; 84-19-029 (Resolution No. 23), § 132Q-04-260, filed 9/14/84; Order 70-1, § 132Q-04-260, filed 9/22/70; Order 1-69, § 132Q-04-260, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-270 Readmission after dismissal. [Statutory Authority: RCW 28B.50.140. 87-16-010 (Resolution No. 27), § 132Q-04-270, filed 7/23/87; Order 1-69, § 132Q-04-270, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

132Q-04-280 Reporting, recording and maintenance of records. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-04-280, filed 6/26/00, effective 7/27/00; 92-14-038, § 132Q-04-280, filed 6/24/92, effective 7/25/92; 84-19-029 (Resolution No. 23), § 132Q-04-280, filed 9/14/84; Order 74-1, § 132Q-04-280, filed 9/23/74; Order 1-69, § 132Q-04-280, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140. Later promulgation, see chapters 132Q-02 and 132Q-07 WAC.

WAC 132Q-04-010 through 132Q-04-280 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 132Q-05 WAC
STUDENT SUMMARY SUSPENSION RULES

WAC

132Q-05-010 through 132Q-05-120 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132Q-05-010 Purpose of summary suspension rules. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-05-010, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-05-010, filed 7/23/87; Order 1-69, § 132Q-05-010, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-05-020 Definitions. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-05-020, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-05-020, filed 7/23/87; Order 1-69, § 132Q-05-020, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-05-030 Jurisdiction. [Order 70-2, § 132Q-05-030, filed 9/22/70; Order 1-69, § 132Q-05-030, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-05-033 Authority to suspend. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-05-033, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-05-033, filed 7/23/87.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-05-036 Conduct at college functions. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-05-036, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-05-036, filed 7/23/87.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-05-040 Initiation of summary suspension proceedings. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-05-040, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-05-040, filed 7/23/87; Order 1-69, § 132Q-05-040, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-05-050 Notice of summary proceedings. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-05-050, filed 6/26/00, effective 7/27/00; 92-14-037, § 132Q-05-050, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-05-050, filed 7/23/87; 87-16-010 (Resolution No. 27), § 132Q-05-050, filed 7/23/87; Order 1-69, § 132Q-05-050, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-05-060 Procedures of summary suspension proceeding. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-05-060, filed 6/26/00, effective 7/27/00; 92-14-037, § 132Q-05-060, filed 6/24/92, effective 7/25/92; 90-21-017, § 132Q-05-060, filed 10/8/90, effective 11/8/90; 87-16-010 (Resolution No. 27), § 132Q-05-060, filed 7/23/87; Order 70-2, § 132Q-05-060, filed 9/22/70; Order 1-69, § 132Q-05-060, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-05-070 Decision by vice-president. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-05-070, filed 6/26/00, effective 7/27/00; 92-14-037, § 132Q-05-070, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-05-070, filed 7/23/87; Order 1-69, § 132Q-05-070, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-05-080 Notice of suspension. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-05-080, filed 6/26/00, effective 7/27/00; 92-14-037, § 132Q-05-080, filed 6/24/92, effective 7/25/92; 90-21-017, § 132Q-05-080, filed 10/8/90, effective 11/8/90; 87-16-010 (Resolution No. 27), § 132Q-05-080, filed 7/23/87; Order 1-69, § 132Q-05-080, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-05-090 Suspension for failure to appear. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-05-090, filed 6/26/00, effective 7/27/00; 92-14-037, § 132Q-05-090, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-05-090, filed 7/23/87; Order 1-69, § 132Q-05-090, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-05-100 Appeal. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-05-100, filed 6/26/00, effective 7/27/00; 92-14-037, § 132Q-05-100, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-05-100, filed 7/23/87; Order 1-69, § 132Q-05-100, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-05-110 Summary suspension proceedings not duplicitous. [Statutory Authority: RCW 28B.50.140. 87-16-010 (Resolution No. 27), § 132Q-05-110, filed 7/23/87; Order 1-69, § 132Q-05-110, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-05-120 Reporting, recording and maintenance of records. [Statutory Authority: RCW 28B.50.140. 92-14-037, § 132Q-05-120, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-05-120, filed 7/23/87; Order 74-1, § 132Q-05-120, filed 9/23/74; Order 1-69, § 132Q-05-120, filed 12/8/69.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

WAC 132Q-05-010 through 132Q-05-120 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 132Q-06 WAC
STUDENT CONFIDENTIAL STUDENT RECORDS

WAC

132Q-06-010 through 132Q-06-040 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132Q-06-010 Confidentiality of student records. [Statutory Authority: RCW 28B.50.140. 87-16-010 (Resolution No. 27), § 132Q-06-010, filed 7/23/87; Order 76-1, § 132Q-06-010, filed 1/26/76.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-06-015 Definition of a student. [Statutory Authority: RCW 28B.50.140. 87-16-010 (Resolution No. 27), § 132Q-06-015, filed 7/23/87; Order 76-1, § 132Q-06-015, filed 1/26/76.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-06-016 Definition of personally identifiable information. [Statutory Authority: RCW 28B.50.140. 91-17-078, § 132Q-06-016, filed 8/21/91, effective 9/21/91.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

132Q-06-020 Education records—Student's right to inspect. [Statutory Authority: RCW 28B.50.140. 92-14-042, § 132Q-06-020, filed 6/24/92, effective 7/25/92; 90-21-018, § 132Q-06-020, filed 10/8/90, effective 11/8/90; 87-16-010 (Resolution No. 27), § 132Q-06-020, filed 7/23/87; Order 76-1, § 132Q-06-020, filed 1/26/76.] Repealed by

	03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.
132Q-06-025	Requests and appeal procedures. [Statutory Authority: RCW 28B.50.140. 92-14-042, § 132Q-06-025, filed 6/24/92, effective 7/25/92; 90-21-018, § 132Q-06-025, filed 10/8/90, effective 11/8/90; 87-16-010 (Resolution No. 27), § 132Q-06-025, filed 7/23/87; Order 76-1, § 132Q-06-025, filed 1/26/76.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.
132Q-06-030	Release of personally-identifiable records. [Statutory Authority: RCW 28B.50.140. 97-24-023, § 132Q-06-030, filed 11/24/97, effective 12/25/97; 92-14-042, § 132Q-06-030, filed 6/24/92, effective 7/25/92; 90-21-018, § 132Q-06-030, filed 10/8/90, effective 11/8/90; 87-16-010 (Resolution No. 27), § 132Q-06-030, filed 7/23/87; Order 76-1, § 132Q-06-030, filed 1/26/76.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.
132Q-06-035	College records. [Order 76-1, § 132Q-06-035, filed 1/26/76.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.
132Q-06-040	Records committee. [Statutory Authority: RCW 28B.50.140. 92-14-042, § 132Q-06-040, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-06-040, filed 7/23/87; Order 76-1, § 132Q-06-040, filed 1/26/76.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

WAC 132Q-06-010 through 132Q-06-040 Repealed. See Disposition Table at beginning of this chapter.

Chapter 132Q-07 WAC
GENERAL CAMPUS CONDUCT

WAC

132Q-07-010	Authority to demand identification.
132Q-07-020	Right of assembly.
132Q-07-030	Outside speakers.
132Q-07-040	Distribution of materials.
132Q-07-050	Commercial activities.
132Q-07-060	Trespass.

WAC 132Q-07-010 Authority to demand identification. (1) For the purpose of determining whether probable cause exists for application of any section of the *Student Rights and Responsibilities* to any conduct by any person on a college facility, any faculty or other college personnel of Community Colleges of Spokane may demand that any person on college facilities produce evidence of student enrollment at the college, by tender of said person's student identification card.

(2) Refusal by a student to produce a student identification card, as required by subsection (1) of this section, shall be cause for disciplinary action.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-07-010, filed 8/25/03, effective 9/25/03.]

WAC 132Q-07-020 Right of assembly. Students shall have the right of "assembly" as defined in WAC 132Q-02-010 upon college facilities that are generally available to the public. Such assembly shall:

(a) Be conducted in an orderly manner; and

(b) Not unreasonably interfere with vehicular or pedestrian traffic; or

(c) Not unreasonably interfere with classes, schedules, meetings or ceremonies, or with educational functions of the college; and

(d) Not unreasonably interfere with college functions.

(2) A student who conducts or participates in an assembly that violates any provision of this section shall be subject to disciplinary action.

(3) Nonstudents who participate in, aid or abet any assembly or assemblies in violation of this section shall be subject to possible prosecution under the state criminal trespass law and/or any other possible civil or criminal remedies available to the college. Faculty and other college personnel who participate in, aid or abet any assembly or assemblies in violation of this section shall be subject to appropriate discipline.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-07-020, filed 8/25/03, effective 9/25/03.]

WAC 132Q-07-030 Outside speakers. (1) Any recognized campus student organization may invite speakers on campus with the written approval of its advisor, subject to other restrictions imposed in this WAC and to the legal restraints imposed by the laws of the United States and the state of Washington.

(2) The appearance of an invited speaker on a campus does not represent an endorsement, either implicit or explicit, of views or opinions of the speaker by the college, its students, its faculty, its college personnel, its administration or its board.

(3) The scheduling of speakers shall be made through the facilities scheduling office of the campus at which the speaker will appear, with prior approval from the appropriate college student activities office.

(4) The appropriate student activities office will be notified at least thirty days prior to the appearance of an invited speaker, at which time a personal services contract (available in the student activities office) must be completed with all particulars regarding speaker, time, place, etc., signed by the sponsoring organization's advisor, and filed with the student activities office. Exceptions to the thirty-day ruling may be made by the appropriate administrator.

(5) The appropriate student activities office may require a question period or arrange to have views other than those of the invited speakers represented at the meeting, or at a subsequent meeting.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-07-030, filed 8/25/03, effective 9/25/03.]

WAC 132Q-07-040 Distribution of materials. (1) Handbills, leaflets, newspapers, and similarly related material (including religious matter) distributed free of charge by any student, nonstudent, by member of a recognized student organization or by college personnel, may be distributed upon a college campus with prior approval by the appropriate student center administrator, provided that such distribution does not interfere with the free flow of vehicle or pedestrian traffic.

(2) Newspapers, leaflets, and similarly related materials offered for sale by any student or nonstudent person or organization may be distributed and sold only through the college book store as are other commercial forms of merchandise, subject to reasonable rules and regulations that may be imposed by the bookstore manager. Exceptions may be made by the appropriate vice-president or designee.

(3) All handbills, leaflets, newspapers, and similarly related material (including religious matter) must bear identification as to the publishing agency and distributing organization or individual.

(4) Any distribution of the materials regulated in this section shall not be construed as endorsement of the same by the college or by the board of trustees of Community Colleges of Spokane.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-07-040, filed 8/25/03, effective 9/25/03.]

WAC 132Q-07-050 Commercial activities. (1) No student or college personnel shall use college facilities for commercial solicitation, or promotional activities except when such activities clearly serve educational objectives. These activities include but are not limited to the display of books of interest to the academic community or the display or demonstration of technical or research equipment. Commercial solicitation may be conducted under the sponsorship or request of a college department or the office of student activities of the college, provided that such solicitation does not interfere with or operate to the detriment of the conduct of college affairs or the free flow of pedestrian or vehicular traffic.

(2) For the purpose of this regulation, the term "commercial activities" does not include handbills, leaflets, newspapers, and similarly related materials as regulated in WAC 132Q-07-040.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-07-050, filed 8/25/03, effective 9/25/03.]

WAC 132Q-07-060 Trespass. The appropriate president or designee of the college in the instance of any event that is determined to be disruptive of order, impedes the movement of vehicles or persons; or threatens to disrupt the movement of persons from college facilities or grounds, shall have the power and authority to:

(a) Give notice against trespass by any manner provided for by law, to any person(s), or group against whom the privilege has been withdrawn or who have been prohibited from entering on or remaining upon any or all portions of a college facility; or

(b) Prohibit the entry of, or withdraw the privilege of a person(s) or any group to enter or remain on any portion of a college facility; or

(c) Order any person(s), or group to leave or vacate all or any portion of a college facility or grounds.

Any student or nonstudent who shall disobey a lawful order given by the president, or designee, pursuant to the requirements of subsection (1) of this section, shall be subject to disciplinary action and/or referred to law enforcement for possible criminal charges.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-07-060, filed 8/25/03, effective 9/25/03.]

Chapter 132Q-20 WAC

FACULTY AND STUDENT TRAFFIC RULES AND REGULATIONS

WAC

132Q-20-005 Definitions.
132Q-20-010 Purpose and jurisdiction for adopting rules.
132Q-20-020 Repealed.
132Q-20-040 Permits required for vehicles on campus.
132Q-20-050 Authorization for issuance of permits.
132Q-20-060 Valid permit.
132Q-20-070 Display of permit.
132Q-20-080 Transfer of permits.
132Q-20-090 Permit revocation.
132Q-20-110 Right to appeal permit revocation/refusal.
132Q-20-120 Responsibility of permit holder.
132Q-20-130 Designation of parking spaces.
132Q-20-140 Parking within designated spaces.
132Q-20-150 Parking hours.
132Q-20-170 Regulatory signs and directions.
132Q-20-180 Speed limit.
132Q-20-190 Pedestrians' right of way.
132Q-20-200 Special traffic and parking regulations and restrictions authorized.
132Q-20-210 Two-wheeled motor bikes or bicycles.
132Q-20-220 Report of accidents.
132Q-20-230 Exceptions from traffic and parking restrictions.
132Q-20-240 Enforcement.
132Q-20-250 Issuance of traffic citations.
132Q-20-260 Fines and penalties for students.
132Q-20-265 Fines and penalties for all district employees.
132Q-20-270 Liability of CCS.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132Q-20-020 Definitions. [Statutory Authority: RCW 28B.50.140. 00-14-007, § 132Q-20-020, filed 6/26/00, effective 7/27/00; 97-24-023, § 132Q-20-020, filed 11/24/97, effective 12/25/97; 92-14-036, § 132Q-20-020, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-20-020, filed 7/23/87; Order 72-5, § 132Q-20-020, filed 10/9/72; Order 71-4, § 132Q-20-020, filed 7/26/71.] Repealed by 03-18-021, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 28B.50.140.

WAC 132Q-20-005 Definitions. As used in this chapter the following words and phrases shall mean:

(1) **Annual permits—**Permits, which are valid for fall through summer quarters.

(2) **Appropriate vice-president—**The chief administrative officer over student services regardless of current position title.

(3) **Board—**The board of trustees of Washington State Community College District 17, also known as Community Colleges of Spokane (CCS).

(4) **Campus—**Any or all real property owned, leased, operated or maintained by Community Colleges of Spokane.

(5) **Campus patrol—**An employee of the college, Administration of Justice student or contracted security personnel, who are responsible to the appropriate vice-president for campus security.

(6) **College—**Any community college or separate instructional unit which may be created by the board of trustees of Community Colleges of Spokane.

(7) **College personnel—**Any person employed or representing on a full- or part-time basis Community Colleges of Spokane.

(8) **Community Colleges of Spokane—**Spokane Community College, Spokane Falls Community College, Institute for Extended Learning and the District Office.

(9) **Quarterly permits—**Permits valid for a specified academic quarter.

(10) **Special Permits—**Permits issued under special circumstances such as "D" permit which is a quarterly disabled parking permit issued by disability support services; carpool permits, issued to college personnel who participate in com-

muter trip reduction; and honorary permit which are issued to Community Colleges of Spokane personnel upon retirement.

(11) **Student—**Any person who is or has officially registered at any college or instructional unit with the Community Colleges of Spokane and with respect to whom the college maintains education records or personally identifiable information.

(12) **Temporary guest permits—**Permits, which are valid for a specific period designated on the permit.

(13) **Vehicle—**An automobile, truck, motorcycle, scooter, or any vehicle empowered by a motor.

(14) **Visitors—**Any person or persons, excluding students as previously defined, who come upon the campus as guests and person or persons who lawfully visit the campus for purposes, which are in keeping with the colleges' role as institutions of higher learning in the state of Washington.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-005, filed 8/25/03, effective 9/25/03.]

WAC 132Q-20-010 Purpose and jurisdiction for adopting rules. Pursuant to the authority granted by RCW 28B.50.140(10), the board of trustees of Community Colleges of Spokane is granted authority to make rules and regulations for pedestrian and vehicular traffic on property owned, operated or maintained by the college district. The rules and regulations contained in this chapter pertain to all students, college personnel, and visitors who use district facilities unless exempted by the chancellor/CEO of the district and are established for the following purposes:

(1) To protect and control pedestrian and vehicular traffic; and

(2) To assure access at all times for emergency traffic; and

(3) To minimize traffic disturbance during class hours; and

(4) To facilitate the work of the community colleges.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-010, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-010, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-20-010, filed 7/23/87; Order 71-4, § 132Q-20-010, filed 7/26/71.]

WAC 132Q-20-020 Repealed. See Disposition Table at beginning of this chapter.

WAC 132Q-20-040 Permits required for vehicles on campus. Students, college personnel, guests and visitors shall not stop, park, or leave a vehicle whether attended or unattended upon the campus without a parking permit issued pursuant to WAC 132Q-20-050, except guests and visitors who will be given a reasonable time to secure a temporary permit from the appropriate vice-president or designee. All students who plan to park on campus and are attending educational programs on campus that meet ten or more times per quarter are required to purchase a valid quarterly permit. Failure to obtain a permit may be grounds for disciplinary action. The fee for the parking permit shall be established by the board of trustees of Community Colleges of Spokane and shall be published. Anyone parking on campus less than ten times per quarter shall obtain temporary guest permit(s).

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-040, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-040, filed 6/26/00, effective 7/27/00; 92-14-036, § 132Q-20-040, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-20-040, filed 7/23/87; Order 73-4, § 132Q-20-040, filed 2/23/73; Order 71-4, § 132Q-20-040, filed 7/26/71.]

WAC 132Q-20-050 Authorization for issuance of permits. The colleges are authorized to issue parking permits to students, college personnel, guests and visitors of the college pursuant to regulations and the payment of appropriate fees as determined by the board of trustees of Community Colleges of Spokane.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-050, filed 8/25/03, effective 9/25/03; 87-16-010 (Resolution No. 27), § 132Q-20-050, filed 7/23/87; Order 71-4, § 132Q-20-050, filed 7/26/71.]

WAC 132Q-20-060 Valid permit. A valid [CCS] parking permit is:

(1) An unexpired parking permit registered and properly displayed; or

(2) A special parking permit authorized by the appropriate vice-president or designee, and properly displayed; or

(3) A temporary guest permit authorized by the appropriate vice-president or designee, and properly displayed.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-060, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-060, filed 6/26/00, effective 7/27/00; 92-14-036, § 132Q-20-060, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-20-060, filed 7/23/87; Order 74-1, § 132Q-20-060, filed 9/23/74; Order 71-4, § 132Q-20-060, filed 7/26/71.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132Q-20-070 Display of permit. All CCS permanent and temporary parking permits shall be hung on the rear view mirror or in such a manner that they may be viewed through the front windshield. For motorcycles, permits must be placed on the front fork area of the vehicle.

(1) Expired permits should be removed before new permits are attached.

(2) Permits not displayed pursuant to the provisions of this section shall not be valid.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-070, filed 8/25/03, effective 9/25/03; 87-16-010 (Resolution No. 27), § 132Q-20-070, filed 7/23/87; Order 74-1, § 132Q-20-070, filed 9/23/74; Order 71-4, § 132Q-20-070, filed 7/26/71.]

WAC 132Q-20-080 Transfer of permits. Parking permits are not transferable to other individuals but may be transferred to another vehicle owned and operated by the purchaser of the permit.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-080, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-080, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-20-080, filed 7/23/87; Order 71-4, § 132Q-20-080, filed 7/26/71.]

WAC 132Q-20-090 Permit revocation. Parking permits are the property of the college and may be recalled by the appropriate vice-president or designee for any of the following reasons:

(1) When the purpose for which the permit was issued changes or no longer exists; or

(2) When a permit is used for an unregistered vehicle or by an unauthorized individual; or

(3) Falsification on a parking permit application; or

(4) Continued violations of parking regulations; or

(5) Counterfeiting or altering a parking permit.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-090, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-090, filed 6/26/00, effective 7/27/00; 92-14-036, § 132Q-20-090, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-20-090, filed 7/23/87; Order 71-4, § 132Q-20-090, filed 7/26/71.]

WAC 132Q-20-110 Right to appeal permit revocation/refusal. . When a student parking permit has been recalled pursuant to WAC 132Q-20-090, or has been refused in accordance with WAC 132Q-20-100, or when a fine or penalty has been levied against a violator of the rules and regulations set forth in this chapter, such action by the appropriate vice-president or designee, may be appealed pursuant to WAC 132Q-108-050; faculty, administrators, and college personnel of Community Colleges of Spokane shall appeal permit revocations, refusals to grant permits, and fines or penalties levied for violations by the appropriate vice-president to the respective college president whose decision on the matter shall be final.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-110, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-110, filed 6/26/00, effective 7/27/00; 92-14-036, § 132Q-20-110, filed 6/24/92, effective 7/25/92; 90-21-021, § 132Q-20-110, filed 10/8/90, effective 11/8/90; 87-16-010 (Resolution No. 27), § 132Q-20-110, filed 7/23/87; Order 73-4, § 132Q-20-110, filed 2/23/73; Order 71-4, § 132Q-20-110, filed 7/26/71.]

WAC 132Q-20-120 Responsibility of permit holder. The person to whom a parking permit is issued pursuant to the rules and regulations set forth in this chapter shall be responsible for all violations of said rules and regulations involving the vehicle and established fines. Such responsibility shall not relieve other persons who violate the rules and regulations established by this chapter of their responsibility for their conduct with vehicles registered to another permit holder.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-120, filed 8/25/03, effective 9/25/03; Order 71-4, § 132Q-20-120, filed 7/26/71.]

WAC 132Q-20-130 Designation of parking spaces. The parking spaces available on campus shall be designated and allocated by the appropriate vice-president or designee, in such a manner that best achieves the objectives of the rules and regulations in this chapter.

(1) Faculty staff, student, and visitor spaces will be designated for their use; and

(2) Parking spaces for the exclusive use by persons of disability will be designated. The appropriate vice-president or designee may issue special permits to students and others to park in these designated spaces;

(3) CCS parking permit along with an official state disabled parking permit allows the permit holder to park in any designated parking space as listed above; and

(4) Other special use spaces may be designated.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-130, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-130, filed 6/26/00, effective 7/27/00; 92-14-036, § 132Q-20-130, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-20-130, filed 7/23/87; Order 71-4, § 132Q-20-130, filed 7/26/71.]

WAC 132Q-20-140 Parking within designated spaces. (1) All vehicles shall follow traffic arrows and other markings established for the purpose of directing traffic on campus.

(2) In areas marked for diagonal parking, vehicles shall be parked at a forty-five degree angle, facing in.

(3) In areas marked for parallel or right-angle parking, space or stall markings will be observed.

(4) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion of more than one space or stall shall not constitute an excuse for a violation of this section.

(5) No vehicle shall be parked on the campus except in those areas set aside and designated pursuant to WAC 132Q-20-130.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-140, filed 8/25/03, effective 9/25/03; Order 71-4, § 132Q-20-140, filed 7/26/71.]

WAC 132Q-20-150 Parking hours. Parking is permitted on campus between the hours of 6:30 a.m. to 11:00 p.m. for college personnel, and students. The rules and regulations pertaining to the use of certain parking permits in specific areas are contained in WAC 132Q-20-[130]. Students and college personnel may park in any of the spaces or stalls designated in WAC 132Q-20-140 except visitor's areas on a first-come, first-served basis between the hours of 5:00 p.m. and 11:00 p.m. Custodial and other authorized personnel may park on campus from 10:00 p.m. to 6:30 a.m., and are still required to follow regular parking regulations and obtain parking permits.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-150, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-150, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-20-150, filed 7/23/87; Order 71-4, § 132Q-20-150, filed 7/26/71.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132Q-20-170 Regulatory signs and directions. The appropriate vice-president or designee is authorized to erect signs, barricades and other structures and to paint marks or other directions upon the entry ways and streets on campus and upon the various parking lots owned, leased or operated by the colleges. Such signs, barricades, structures, markings, and directions, shall be made and placed to best achieve the objectives stated in WAC 132Q-20-010 and the rules and regulations contained in this chapter.

Drivers of vehicles shall observe and obey the signs, barricades, structures, markings and directions erected pursuant to this section. Drivers shall also comply with the directions given them by the campus patrol in the control and regulation of traffic.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-170, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-170, filed 6/26/00, effective 7/27/00; 92-14-036, § 132Q-20-170, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-20-170, filed 7/23/87; Order 71-4, § 132Q-20-170, filed 7/26/71.]

WAC 132Q-20-180 Speed limit. No vehicle shall be operated on the campuses at a speed in excess of the posted speed limit or such slower speed as is reasonable and prudent in the circumstances. No person operating a vehicle of any type shall at any time use the campus parking lots for testing, racing, or other unauthorized activities unless authorized by the appropriate vice-president or designee.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-180, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-180, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-20-180, filed 7/23/87; Order 71-4, § 132Q-20-180, filed 7/26/71.]

WAC 132Q-20-190 Pedestrians' right of way. (1) The operator of a vehicle shall yield the right of way; slowing down or stopping, if need be, to yield to any pedestrian. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close it is impossible for the driver to yield.

(2) Whenever any vehicle slows or stops to yield to pedestrian traffic, the operator of any other vehicle approaching from the rear shall not overtake and pass such a vehicle that has slowed or stopped to yield to pedestrian traffic.

(3) Every pedestrian crossing at any point other than a marked crosswalk or within an unmarked crosswalk at an intersection, shall yield the right of way to all vehicles.

(4) Pedestrians shall use sidewalks where provided.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-190, filed 8/25/03, effective 9/25/03; 87-16-010 (Resolution No. 27), § 132Q-20-190, filed 7/23/87; Order 71-4, § 132Q-20-190, filed 7/26/71.]

WAC 132Q-20-200 Special traffic and parking regulations and restrictions authorized. When special occasions create additional and/or heavy traffic and during emergencies, the appropriate vice-president or designee, is authorized to impose additional traffic and parking regulations and restrictions achieve the objectives specified in WAC 132Q-20-010.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-200, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-200, filed 6/26/00, effective 7/27/00; 92-14-036, § 132Q-20-200, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-20-200, filed 7/23/87; Order 71-4, § 132Q-20-200, filed 7/26/71.]

WAC 132Q-20-210 Two-wheeled motor bikes or bicycles. (1) All two-wheeled vehicles empowered by a motor shall park in a space designated for *motorcycles only.*

(2) No vehicle shall be driven or ridden on the sidewalks on campus at any time unless authorized by the appropriate vice-president or designee.

No skateboards or roller blades/skates shall be allowed on campus.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-210, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-210, filed 6/26/00, effective 7/27/00; 92-14-036, § 132Q-20-210, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-20-210, filed 7/23/87; Order 71-4, § 132Q-20-210, filed 7/26/71.]

WAC 132Q-20-220 Report of accidents. The operator of any vehicle involved in an accident on campus resulting in injury to or death of any person or *total of claimed damage to either or both vehicles exceeding $300.00 shall immediately* report the accident to the appropriate vice-president or designee, and shall within twenty-four hours after such accident, file a state of Washington motor vehicle accident report if required.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-220, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-220, filed 6/26/00, effective 7/27/00; 92-14-036, § 132Q-20-220, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-20-220, filed 7/23/87; Order 71-4, § 132Q-20-220, filed 7/26/71.]

WAC 132Q-20-230 Exceptions from traffic and parking restrictions. These rules and regulations shall not apply to city-, county-, state- or federally owned emergency vehicles.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-230, filed 8/25/03, effective 9/25/03; 87-16-010 (Resolution No. 27), § 132Q-20-230, filed 7/23/87; Order 71-4, § 132Q-20-230, filed 7/26/71.]

WAC 132Q-20-240 Enforcement. (1) Enforcement of the parking rules and regulations will begin the first day of fall quarter and will continue until the start of the following fall quarter.

(2) The appropriate vice-president or designee shall be responsible for the enforcement of the rules and regulations contained in this chapter.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-240, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-240, filed 6/26/00, effective 7/27/00; 92-14-036, § 132Q-20-240, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-20-240, filed 7/23/87; Order 72-5, § 132Q-20-240, filed 10/9/72; Order 71-4, § 132Q-20-240, filed 7/26/71.]

WAC 132Q-20-250 Issuance of traffic citations. Upon violation of any rules and/or regulations contained in this chapter, the appropriate vice-president or designee, may issue a traffic citations setting forth the date, approximate time, permit number, license information, infraction, officer, and schedule of fines. Traffic citations may be served by attaching or affixing a copy in a prominent place outside the vehicle or by personally serving the operator/owner and by direct entry into the violator's "Customer Account[.]"

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-250, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-250, filed 6/26/00, effective 7/27/00; 92-14-036, § 132Q-20-250, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-20-250, filed 7/23/87; Order 71-4, § 132Q-20-250, filed 7/26/71.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132Q-20-260 Fines and penalties for students. (1) Fines will be levied by the appropriate vice-president or designee for all violations of the regulations contained in this chapter. A current schedule of fines is available from the security office.

(2) Students have the right to due process and may appeal a decision of the appropriate vice-president or designee to the college president or chief administrator of a recognized instructional unit whose decision shall be final.

(3) Vehicles parked on any campus in violation of any of the regulations contained in this chapter, may be impounded or detained by use of mechanical devices at the discretion of the appropriate vice-president or designee. If a vehicle is impounded, it may be taken to such place for storage as the

appropriate vice-president or designee selects. The expenses of such impounding and storage shall be the sole responsibility of the owner or operator of the vehicle. CCS shall not be liable for loss or damage of any kind resulting from such impounding and storage.

(4) At the discretion of the appropriate vice-president or designee, an accumulation of traffic violations by a student will be cause for disciplinary action, pursuant to WAC 132Q-02-270.

(5) The duly elected associated student government officers of CCS recommend a proposed schedule of fines prior to adoption of a new fine schedule.

(6) Refusal to pay a fine still existing after exhaustion of the appellate process shall be grounds for disciplinary action. In the case of students, failure to pay fines shall be grounds for the college, in addition to disciplinary action, to deny admission to CCS, registration, official transcripts, graduation or other administrative action. Failure to pay fines could result in the denial of issuing a permit.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-260, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-260, filed 6/26/00, effective 7/27/00; 92-14-036, § 132Q-20-260, filed 6/24/92, effective 7/25/92; 87-16-010 (Resolution No. 27), § 132Q-20-260, filed 7/23/87; Order 72-2, § 132Q-20-260, filed 2/7/72; Order 71-4, § 132Q-20-260, filed 7/26/71.]

WAC 132Q-20-265 Fines and penalties for all district employees. (1) Fines levied for all violations are subject to payment to CCS in accordance with the established fine schedule.

(2) Faculty and other district employees have the right of due process and may appeal a decision of the appropriate vice-president or designee to the college president or chief administrator of a recognized institutional unit whose decision shall be final.

(3) Vehicles parked on any campus in violation of any of the regulations contained in this chapter, may be impounded or detained by use of mechanical devices at the discretion of the appropriate vice-president or designee. If a vehicle is impounded, it may be taken to such a place of storage as the appropriate vice-president or designee selects. The expenses of such impounding and storage shall be the sole responsibility of the owner or operator of the vehicle. CCS shall not be liable for loss or damage of any kind resulting from such impounding and storage.

(4) At the discretion of the appropriate vice-president or designee, an accumulation of traffic violations by college personnel is subject to disciplinary action pursuant to WAC 132Q-02-270.

(5) Refusal to pay a fine still existing after exhaustion of the appellate process shall be grounds for disciplinary action. Failure to pay fines could result in the denial of issuance of a permit, and/or impounding of vehicle.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-265, filed 8/25/03, effective 9/25/03; 87-16-010 (Resolution No. 27), § 132Q-20-265, filed 7/23/87.]

WAC 132Q-20-270 Liability of [CCS]. Community Colleges of Spokane assumes no liability under any circumstances for vehicles parked on campus.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-20-270, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-20-270, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-20-270, filed 7/23/87; Order 71-4, § 132Q-20-270, filed 7/26/71.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

Chapter 132Q-94 WAC
FACULTY AND STUDENT HEALTH AND SAFETY REGULATIONS

WAC

132Q-94-010 Declaration of purpose.
132Q-94-020 Rationale.
132Q-94-030 Students' responsibilities.
132Q-94-130 Violations.
132Q-94-150 Prohibition of weapons and other dangerous instrumentalities.
132Q-94-160 Prohibition of open flames in college buildings.

WAC 132Q-94-010 Declaration of purpose. By adoption of the following health and safety regulations the board of trustees of Community Colleges of Spokane expresses its firm commitment to the safety and health of its students and employees. The board further recognizes the importance of students and employees developing safe work habits, particularly in the areas of equipment and machinery operation, and in the handling of potentially hazardous chemical substances. This chapter shall apply to all students, college [personnel] and visitors and shall pertain to all campuses and sites under the direct or indirect control of the district.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-94-010, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-94-010, filed 6/26/00, effective 7/27/00; 90-21-022, § 132Q-94-010, filed 10/8/90, effective 11/8/90; 87-16-010 (Resolution No. 27), § 132Q-94-010, filed 7/23/87; Order 72-1, § 132Q-94-010, filed 1/28/72.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132Q-94-020 Rationale. Adoption of these health and safety rules by the board of trustees is based on the following standards:

(1) The possibility of accidental injury to an individual exists at all times and in all places and no place of work or any human activity is exempt from the possibility of accidents.

(2) All community college safety programs are for the benefit of the Community Colleges of Spokane and the individual students enrolled within the institution(s). There is no conflict of interests between the students and the college in the area of an accident prevention program; through accident prevention, everyone benefits.

(3) Accident prevention requires both organization and education, consisting largely of the desire to provide and maintain an environment free of hazards through institution of a common-sense safety program and the determination to carry out the program effectively.

(4) Effective accident prevention includes instructor leadership, student cooperation, effective organization, thorough training, and good supervision.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-94-020, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-94-020, filed 6/26/00, effec-

tive 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-94-020, filed 7/23/87; Order 72-1, § 132Q-94-020, filed 1/28/72.]

WAC 132Q-94-030 Students' responsibilities. Students attending Community Colleges of Spokane shall, to the best of their ability, make it their individual responsibility to keep themselves and their fellow students free from accidents. In the interest of accident prevention, students shall obey the approved district safety rules and procedures including those outlined below, as well as other, more specific safety rules, as outlined by their instructors:

(1) Students shall consider the benefits of accident prevention to themselves, to others, and to their work, and shall act accordingly, conducting their work to avoid accidents through observation of safe work practices.

(2) Students shall study and observe all safe practices governing their specific area of work or class assignment, and shall make a concerted effort to understand their job and area of assignment.

(3) Students shall ascertain emergency procedures from their instructor or supervisor.

(4) Students shall remain alert for any unsafe condition(s) or practice(s), immediately reporting any observed to their instructor or supervisor.

(5) Students shall promptly report any accident in which they are injured, regardless of the degree of severity, to their instructor or supervisor.

(6) Students shall not engage in practical jokes or horseplay while attending class or while on the job.

(7) Students shall not report to class or a work-study position while under the influence of intoxicants or drugs, nor shall such items be used or consumed while on the premises of the Community Colleges of Spokane or representing the Community Colleges of Spokane at an off-site location.

(8) Students who receive their instructor or supervisor's permission to operate a state vehicle shall comply with existing fleet policies and procedures of Community Colleges of Spokane.

(9) Students shall comply with existing smoking regulations of the Community Colleges of Spokane.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-94-030, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-94-030, filed 6/26/00, effective 7/27/00; 87-16-010 (Resolution No. 27), § 132Q-94-030, filed 7/23/87; Order 72-1, § 132Q-94-030, filed 1/28/72.]

WAC 132Q-94-130 Violations. Violations of these rules and regulations based on health and safety standards within this chapter shall be cause for disciplinary action under the provisions of chapter 132Q-[02] WAC. Disciplinary proceedings shall be conducted in accordance with chapter 132Q-[02] WAC.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-94-130, filed 8/25/03, effective 9/25/03; 87-16-010 (Resolution No. 27), § 132Q-94-130, filed 7/23/87; Order 72-1, § 132Q-94-130, filed 1/28/72.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132Q-94-150 Prohibition of weapons and other dangerous instrumentalities. No college personnel, student or member of the public shall carry, transport within a vehicle or otherwise possess any weapon explosive device, hazardous chemicals or any other hazardous weapon such as knives or substance on any college campus or other district property except for use in an authorized college activity with express authorization from the chief executive of the campus or an authorized designee.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-94-150, filed 8/25/03, effective 9/25/03; 00-14-007, § 132Q-94-150, filed 6/26/00, effective 7/27/00; 90-21-023, § 132Q-94-150, filed 10/8/90, effective 11/8/90.]

WAC 132Q-94-160 Prohibition of open flames in college buildings. Candles and other open flames, including lighting and burning of incense, are prohibited in any building owned or operated by Community Colleges of Spokane. Open flames create a fire hazard, and scented candles and incense can be an irritant to other individuals. Exceptions may be made if the candle or flame is associated with instructional equipment under appropriate faculty supervision or for decorative/food preparation purposes as part of an approved college function and with appropriate equipment. The facilities department obtains necessary permits from the city of Spokane fire department for such uses.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-94-160, filed 8/25/03, effective 9/25/03.]

Chapter 132Q-108 WAC
RULES OF PRACTICE

WAC

132Q-108-010 Adoption of model rules of practice and procedure.
132Q-108-020 Appointment of presiding officers.
132Q-108-040 Application for adjudicative proceeding.
132Q-108-050 Brief adjudicative procedures.

WAC 132Q-108-010 Adoption of model rules of practice and procedure. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use at Community Colleges of Spokane. Those rules may be found in chapter 10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and procedural rules adopted in this title, the procedural rules adopted by Community Colleges of Spokane shall govern. Rules adopted at CCS prior to July 1, 1989, remain in full force and effect unless specifically repealed or amended.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-108-010, filed 8/25/03, effective 9/25/03; 91-17-076, § 132Q-108-010, filed 8/21/91, effective 9/21/91.]

WAC 132Q-108-020 Appointment of presiding officers. The chancellor/CEO shall appoint a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the chief executive officer or a designee of the chief executive officer, or any combination of the above. Where more than one individual is designated to be the presiding officer, one person shall be designated by the chief executive officer or the designee of the chief executive officer to make deci-

sions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-108-020, filed 8/25/03, effective 9/25/03; 91-17-076, § 132Q-108-020, filed 8/21/91, effective 9/21/91.]

WAC 132Q-108-040 Application for adjudicative proceeding. An application for adjudicative proceeding shall be in writing. Application forms are available at the following address: Community Colleges of Spokane, 501 North Riverpoint Boulevard, P.O. Box 6000, MS 1001 Spokane, Washington, 99217-6000. Written application for an adjudicative proceeding should be submitted to the above address within 20 days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-108-040, filed 8/25/03, effective 9/25/03; 91-17-076, § 132Q-108-040, filed 8/21/91, effective 9/21/91.]

WAC 132Q-108-050 Brief adjudicative procedures. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

(1) Residency determinations made pursuant to RCW 28B.15.013, conducted by the admissions office;

(2) Disputes concerning educational records;

(3) Student conduct proceedings. The procedural rules in chapter 132Q-02 WAC apply to these procedures;

(4) Parking violations. The procedural rules in chapter 132Q-20 WAC apply to these proceedings;

(5) Outstanding debts owed by students or employees;

(6) Loss of eligibility for participation in institution-sponsored athletic events, pursuant to WAC 132Q-02-510.

[Statutory Authority: RCW 28B.50.140. 03-18-021, § 132Q-108-050, filed 8/25/03, effective 9/25/03; 92-14-039, § 132Q-108-050, filed 6/24/92, effective 7/25/92; 91-17-076, § 132Q-108-050, filed 8/21/91, effective 9/21/91.]

Title 132R WAC

COMMUNITY COLLEGES—BIG BEND COMMUNITY COLLEGE

Chapters

132R-01 Organization.
132R-02 Practice and procedure.
132R-04 Student conduct code.
132R-05 Loss of eligibility—Student athletic participation.
132R-12 Designating authority—Exemptions from higher education personnel law.
132R-116 Traffic and parking regulations.
132R-117 General conduct code.
132R-118 Traffic and parking regulations for bicycles, motorcycles and motorscooters.
132R-136 Use of college facilities.
132R-144 Bookstore operating procedures.
132R-150 Library policies.
132R-158 Residence housing policies.
132R-175 Public records.
132R-190 Implementation of the Family Educational Rights and Privacy Act of 1974.
132R-200 Policy on personnel files.

Chapter 132R-01 WAC
ORGANIZATION

WAC

132R-01-010 Organization—Operation—Information.

WAC 132R-01-010 Organization—Operation—Information. (1) Organization. Big Bend Community College is established in Title 28B RCW as a public institution of higher education. The institution is governed by a five-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(2) Rules coordinator. The designated rules coordinator for Big Bend Community College is the vice-president, administrative services, located at the following address:

Vice-President, Administrative Services
Big Bend Community College
Building 1400
7662 Chanute Street
Moses Lake, WA 98837-3299

(3) Operation. The administrative office is located at the following address:

Big Bend Community College
Building 1400
7662 Chanute Street
Moses Lake, WA 98837-3299

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.

(4) Information. Additional and detailed information concerning the educational offerings may be obtained from the catalog, copies of which are available at the following address:

Big Bend Community College - Admissions
Building 1400
7662 Chanute Street
Moses Lake, WA 98837-3299

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-01-010, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-016, § 132R-01-010, filed 12/26/89, effective 1/26/90.]

Chapter 132R-02 WAC
PRACTICE AND PROCEDURE

WAC

132R-02-040 Application for adjudicative proceeding.
132R-02-080 Recording devices.

WAC 132R-02-040 Application for adjudicative proceeding. An application for adjudicative proceeding shall be

in writing. Application forms are available at the following address:

President's Office
Big Bend Community College
Building 1400
7662 Chanute Street
Moses Lake, WA 98837-3299

Written application for an adjudicative proceeding should be submitted to the above address within twenty days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-02-040, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-016, § 132R-02-040, filed 12/26/89, effective 1/26/90.]

WAC 132R-02-080 Recording devices. No cameras or recording devices shall be allowed in those parts of proceedings which the presiding officer has determined shall be closed pursuant to WAC 132R-02-070, except for the method of official recording selected by the institution.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-02-080, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-016, § 132R-02-080, filed 12/26/89, effective 1/26/90.]

Chapter 132R-04 WAC
STUDENT CONDUCT CODE

WAC

132R-04-010 Student rights and responsibilities.
132R-04-015 Definitions.
132R-04-017 Jurisdiction.
132R-04-019 Right to demand identification.
132R-04-020 Repealed.
132R-04-030 Repealed.
132R-04-035 Repealed.
132R-04-040 Freedom of expression.
132R-04-042 Freedom of access to higher education.
132R-04-047 Freedom of association and organization.
132R-04-050 Repealed.
132R-04-055 Repealed.
132R-04-056 Standards.
132R-04-057 Student code of conduct violations.
132R-04-060 Repealed.
132R-04-063 Disciplinary sanctions.
132R-04-064 Interim discipline.
132R-04-067 Readmission after major discipline.
132R-04-070 Repealed.
132R-04-080 Repealed.
132R-04-090 Repealed.
132R-04-100 Delegation of disciplinary authority.
132R-04-110 Repealed.
132R-04-112 Discipline statement.
132R-04-115 Disciplinary action.
132R-04-117 Disciplinary committee.
132R-04-120 Repealed.
132R-04-130 Disciplinary committee procedures.
132R-04-140 Disciplinary committee decision.
132R-04-150 Imposition of discipline.
132R-04-160 Student appeal.
132R-04-165 Maintenance of disciplinary records.
132R-04-170 Criminal prosecution.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132R-04-020 Liquor. [Order 69-4, § 132R-04-020, filed 12/5/69.] Repealed by 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.

132R-04-030 Drugs. [Order 69-4, § 132R-04-030, filed 12/5/69.] Repealed by 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.

132R-04-035 Damaging property. [Order 69-4, § 132R-04-035, filed 12/5/69.] Repealed by 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.

132R-04-050 Criminal violations. [Order 69-4, § 132R-04-050, filed 12/5/69.] Repealed by 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.

132R-04-055 Classroom conduct. [Order 69-4, § 132R-04-055, filed 12/5/69.] Repealed by 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.

132R-04-060 Commercial activities. [Order 69-4, § 132R-04-060, filed 12/5/69.] Repealed by 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.

132R-04-070 Outside speakers. [Order 69-4, § 132R-04-070, filed 12/5/69.] Repealed by 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.

132R-04-080 Trespass. [Order 69-4, § 132R-04-080, filed 12/5/69.] Repealed by 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.

132R-04-090 Distribution of materials. [Order 69-4, § 132R-04-090, filed 12/5/69.] Repealed by 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.

132R-04-110 Disciplinary action. [Order 69-4, § 132R-04-110, filed 12/5/69.] Repealed by 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.

132R-04-120 Disciplinary committee. [Order 69-4, § 132R-04-120, filed 12/5/69.] Repealed by 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.

WAC 132R-04-010 Student rights and responsibilities. Admission to the college carries with it the expectation that students will conduct themselves as responsible members of the college community, that they will comply with the rules and regulations of the college, maintain high standards of integrity and honesty, respect the rights, privileges, and property of other members of the college community, and will not interfere with legitimate college affairs.

The rights and responsibilities of students are further defined and listed in the "student rights and responsibilities" policy adopted by the board of trustees of Big Bend Community College. Policies and procedures are fully explained in the student handbook which is on file in the office of the vice-president of student services.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-010, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-019, § 132R-04-010, filed 12/26/89, effective 1/26/90; Order 69-4, § 132R-04-010, filed 12/5/69.]

WAC 132R-04-015 Definitions. (1) "ASB" means the representative governing body for students at Big Bend Community College recognized by the board of trustees.

(2) "Assembly" means any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons or group of persons.

(3) "Board" means the board of trustees of Community College District 18, state of Washington.

(4) "College president" or "president" means the duly appointed chief executive officer of Big Bend Community

College, Community College District 18, state of Washington, or in his/her absence, the acting chief executive officer.

(5) "College" means Big Bend Community College located within Community College District 18, state of Washington.

(6) "College facilities" means and includes any or all real and personal property owned or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(7) "College personnel" refers to any person employed by Community College District 18 on a full-time or part-time basis, except those who are faculty members.

(8) "Disciplinary action" means and includes suspension or any lesser sanction of any student by the vice-president of student services, student disciplinary council, college president, or the board of trustees for the violation of any of the provisions of the code of student conduct or any of the provisions of the code of student rights and responsibilities for which such sanctions may be imposed.

(9) "District" means Community College 18, state of Washington.

(10) "Faculty member(s)" means any employee of Big Bend Community College who is employed on a full-time or part-time basis as a teacher, counselor, librarian or other position for which the training, experience and responsibility are comparable as determined by the appointing authority, except administrative appointments.

(11) "Hazing" means any method of initiation into a student organization, association, or living group or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education or post-secondary institution.

(12) "Recognized student organization" means and includes any group or organization composed of students, which is affirmed by the student government of the college.

(13) "A sponsored event or activity" means any activity that is scheduled by the college and is supervised and controlled by college faculty members or personnel. Such sponsorship shall continue only as long as the event is supervised and controlled by the college faculty member or personnel. When the sponsored event or activity is of a prolonged nature, and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the college faculty member(s) or personnel, shall be deemed to be a nonsponsored activity.

(14) "Student" means a person who is enrolled for courses at the college.

(15) "Working days" means Monday through Friday, excluding holidays.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-015, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-017 Jurisdiction. All rules herein adopted shall apply to every student whenever said student is present upon or in any college facility and whenever said student is present at or engaged in any college sponsored activity or function whether occurring on or off college facilities/premises.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-017, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-019 Right to demand identification. For the purpose of determining identity of a person as a student any faculty member or other college personnel authorized by the college president may demand that any person on college facilities produce evidence of student enrollment at the college. Tender of the student identification card will satisfy this requirement.

Refusal by a student to produce identification as required shall subject the student to disciplinary action.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-019, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-020 Repealed. See Disposition Table at beginning of this chapter.

WAC 132R-04-030 Repealed. See Disposition Table at beginning of this chapter.

WAC 132R-04-035 Repealed. See Disposition Table at beginning of this chapter.

WAC 132R-04-040 Freedom of expression. (1) Fundamental to the democratic process are the rights of free speech and peaceful assembly. Students, other members of the college community, and nonstudents shall always be free to express their views or support causes by orderly means which do not disrupt the regular and essential operations of the college.

(2) Concomitantly, while supporting the rights of students and others, the college recognizes the responsibility to maintain an atmosphere conducive to a sound educational endeavor.

(3) To insure the reconciliation of such rights and responsibilities, while respecting the private rights of all individuals, campus demonstrations may be conducted only in areas which are generally available to the public provided such demonstrations:

(a) Are conducted in an orderly manner; and

(b) Do not unreasonably interfere with classes, scheduled meetings or ceremonies, or with the general educational processes of the college; or

(c) Do not unreasonably interfere with vehicular or pedestrian traffic; or

(d) Do not unreasonably interfere with regular college functions.

(4) A student who conducts or participates in a demonstration which violates any provision of this rule shall be subject to disciplinary action. A nonstudent who violates any provision of the rule will be referred to civilian authorities for criminal prosecution.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-040, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-040, filed 12/5/69.]

WAC 132R-04-042 Freedom of access to higher education. Each student is free to pursue his or her educational goals; and to that end, appropriate opportunities for learning in the classroom shall be provided by the district. The college

shall maintain an open door policy, to the end that no student will be denied admission because of the location of the student's residence, or because of the student's educational background or ability; that, insofar as is practical in the judgment of the board, curriculum offerings shall be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body; provided, that the administrative officers of the college may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, the student would not be competent to profit from the curriculum offerings of the community college, or would, by the student's presence or conduct, create a disrupting atmosphere within the community college inconsistent with the purposes of the institution.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-042, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-047 Freedom of association and organization. Students bring to the campus a variety of previously acquired interests and develop many new interests as members of the college community. They are free to organize and join associations to promote any legal purpose, whether it be religious, political, educational, recreational or social.

Student organizations must be granted a charter by the college student government before they may be officially recognized. Prior to becoming chartered, a student organization must submit to the student government a statement of purpose, criteria for membership, a statement of operating rules or procedures, and the name of a faculty member who has agreed to serve as an advisor. All student organizations must also submit to the student government a list of officers and keep that list updated when changes occur.

In order to qualify for issuance of a charter, a student organization must be open to all students without respect to race, sex, creed, national origin, or religion. Membership in all student organizations shall be open to any member of the college community who is willing to subscribe to the stated aims of the student organization. Affiliation with a noncampus organization shall not be grounds for denial of charter, provided that other conditions for charter issuance have been met.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-047, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-050 Repealed. See Disposition Table at beginning of this chapter.

WAC 132R-04-055 Repealed. See Disposition Table at beginning of this chapter.

WAC 132R-04-056 Standards. Attendance at Big Bend Community College presupposes that a student will observe the laws and deport themselves according to accepted standards of personal and group conduct. It further presupposes that each student will comply with the rules, regulations and procedures as are, or may be, established by Big Bend Community College. Failure to observe such laws, standards, rules, regulations and procedures shall render a student subject to penalties, which may include dismissal from the college.

The provisions of this section on student conduct and discipline do not apply to probation or suspension arising solely from low scholarship.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-056, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-057 Student code of conduct violations. Any student shall be subject to immediate disciplinary action provided for in code procedures and summary suspension rules who, either as a principal actor or aider or abettor:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college.

(2) Violates any provisions of the code of student rights and responsibilities.

(3) Commits any of the following acts which are hereby prohibited:

(a) All forms of academic misconduct and dishonesty including cheating, plagiarism, knowingly furnishing false information to the college, and forgery, alteration or use of college documents or instruments of identification with intent to defraud.

(b) Failure to comply with lawful directions of faculty, administrators and other regularly employed personnel acting in performance of their lawful duties.

(c) Conduct which intentionally and substantially obstructs or disrupts freedom of movement, teaching, disciplinary proceedings or other lawful activities on the college campus. Said conduct may be defined as:

(i) Behavior that involves an expressed or an implied threat to interfere with an individual's personal safety, academic efforts, employment, or participation in college activities and causes the person to have a reasonable apprehension that such interference is about to occur;

(ii) Threat to cause bodily harm at present or in the future to any person, or to cause physical damage to another's property, or to maliciously do any act which is intended to substantially harm another person's physical or mental health or safety;

(iii) Intentional and repeated following or contacting another person in a manner that intimidates, harasses or places another in fear for his or her personal safety or the safety of his or her property.

(d) Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the physical or mental health and safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

(e) All forms of sexual misconduct which includes sexual harassment, sexual intimidation, sexual coercion, sexual assault, and rape.

(f) All forms of hazing which endangers, or is likely to endanger, the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of admission into, affiliation with, or as a condition for continued membership in a group or college organization.

(g) Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus.

(h) Refusal to comply with any lawful order to leave the college campus or any portion thereof.

(i) Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the college campus, except for authorized college purposes; unless prior written approval has been obtained from the vice-president of student services, or any other person designated by the college president.

(j) Intentionally inciting others to engage immediately in any of the conduct prohibited herein, which incitement leads directly to such conduct. (Inciting is that advocacy which prepares the group addressed for imminent action and steers it to the conduct prohibited herein.)

(k) Possessing, consuming, being demonstrably under the influence of, or furnishing any form of alcoholic beverages on college-owned or controlled property or at college-sponsored or supervised functions where prohibited by the college's current alcohol policy.

(l) Disorderly conduct, including disorderly conduct resulting from drunkenness.

(m) Engaging in lewd, indecent or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

(n) Using, possessing, furnishing or selling any narcotic or dangerous drug as defined in Washington statutes, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist.

(o) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or other device established for the safety of individuals and/or college facilities.

(p) Theft or conversion of college property or private property.

(q) Entering any administrative office or any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(r) Possession, making or causing to be made, any key to operate locks or locking mechanisms on campus without proper authorization or using or giving to another, a key for which there has been no proper authorization.

(s) Interfering with college computing or communication functions or with the work of another student, faculty member, or college official; gaining unauthorized access, altering data, misusing computing facilities to send harassing messages, or misuse of the campus network and/or computing facilities as defined by the current college technology use policy and procedures.

(t) Disruptive classroom conduct including abusive language toward a classroom instructor and/or student and other acts of misconduct.

(4) Single or repeated violation of the above code is relevant in determining an applicant's or a student's membership in the college.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-057, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-060 Repealed. See Disposition Table at beginning of this chapter.

WAC 132R-04-063 Disciplinary sanctions. If any student is found to have violated any of the offenses enumerated at WAC 132-04-057, one or more of the following sanctions may be imposed against the student or student organization. Failure to comply with any imposed sanctions may result in additional sanctions.

(1) Minor disciplinary sanction:

(a) "Disciplinary warning." Formal action censoring a student for unacceptable conduct or violation of college rules or regulations. The student is notified in writing of this action. Warnings imply that further unacceptable conduct or violation of rules will result in one of the more serious actions described below.

(b) "Disciplinary probation." Formal action placing condition on the student's continued attendance for violation of specified regulations. The disciplinary probation shall specify, in writing, the period of probation and the conditions which may include conditions such as limiting the student's participation in college-related privileges or extracurricular activities or enforcing a "no contact" order which would prohibit direct or indirect physical and/or verbal contact with specific individuals or groups. Disciplinary probation further shall give the student notice that any further misconduct will automatically raise the question of suspension from the college. Disciplinary probation shall be for a specified period of time.

(c) "Educational activities." Activities designed to foster student development may include, but are not limited to, community service, attendance at educational programs, or written assignments.

(d) "Restitution." Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(e) "Assessment." Referral for drugs/alcohol or psychological assessment may be required. Results of the assessment may lead to the determination that conditions of treatment and further assessment apply to either continued attendance or return after a period of suspension.

(2) Major disciplinary sanction:

(a) "Disciplinary suspension." Formal action taken by authorized personnel (the president or anyone authorized to act in the absence of the president) dismissing a student temporarily from the college for unacceptable conduct or violation of college rules or regulations. Suspension may be for a stated or for an indefinite period, but the implication of the action is that the student may eventually return if evidence or other assurance is presented that the unacceptable conduct will not be repeated. The notification suspending the student must state the conditions to be met and whether the action is to be noted permanently on the student's record. The student and vice-president of student services are notified in writing of the action taken, the terms of the suspension and any conditions involved, and the dean of enrollment services is requested to enter the action on the student's academic record. No fees will be refunded for the quarter in which the action is taken.

(b) "Disciplinary expulsion." Discretionary action by authorized personnel dismissing a student permanently for

flagrantly unacceptable conduct or violation of college rules or regulations. Unlike suspension, no term is involved, the action always becomes effective on notice. Expulsion must have the prior approval of the president. The student is notified in writing of the action taken, and the dean of enrollment services is requested to enter the action permanently on the student's academic record.

(c) "Hold" (administrative). Attachment of a student's record to assure compliance with college rules, procedures, or obligations. The "hold" may be placed on the student's record by the authorized college office responsible for enforcement of the rule, procedure, or obligation involved. The authorized office must request the dean of enrollment services in writing to place a "hold" on the student's record. The student will not be permitted to register for any subsequent quarter nor to obtain a transcript of his/her record except on the written release of the office which placed the "hold."

(d) "Registration canceled" (administrative). Privileges of attendance withdrawn, effective immediately on notice.

(i) By order of the business office for financial delinquencies. (Handled as a withdrawal for recording purposes.)

(ii) By order of the vice-president of student services for failure to comply with rules, regulations or instructions.

The order canceling a registration must be addressed to the student involved in writing. The registration office automatically will place a "hold" on the student's record to prevent registration for future quarters and the issuance of transcripts.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-063, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-064 Interim discipline. (1) Disciplinary actions of the college will be implemented by the president, except as such implementation may be delegated by the president or the board of trustees. Ordinarily, the disciplinary authority of the college will be invoked only after completion of the procedures established for the review of disciplinary cases and after the student, if he/she so wishes, has availed himself/herself of the appeal procedures. However, in situations where there is cause to believe that the student or the student organization poses an immediate threat to himself or herself, to others or to property, or is incapable of continuing as a student for medical or psychological reasons, or where it is believed that the student's continued attendance or presence may cause disorder or substantially interfere with or impede the lawful activities of others or imperil the physical or mental health and safety of members of the college community, interim actions may be taken immediately without prior notice or hearing. These actions, taken by the president or the president's designee, may include:

(a) Interim restrictions, including, but not limited to, assignment to alternate college housing or removal from college housing, limitation of access to college facilities, or restriction of communication with specific individuals or groups;

(b) Interim suspension, including temporary total removal from the college or restriction of access to campus;

(c) Mandatory medical/psychological assessment, including referral to outside, medical professionals and/or to the mental health advisory board for assessment of the student's capability to remain in the college.

(2) Each instructor is authorized to implement interim suspension when necessary to preserve order and to maintain effective cooperation of the class in fulfilling the objective of the course. An instructor imposing an interim suspension shall report such action, in writing, to the division chair, vice-president of student services, and vice-president of instruction.

(3) In all cases of interim discipline, the student or student organization is entitled to personally appeal before the vice-president of student services or designee as soon as is reasonably possible. The student disciplinary review request must be submitted in writing no later than ten working days from the date of said disciplinary action.

(4) The vice-president of student services shall conduct a meeting with the student within five working days after receipt of the disciplinary review request. As a result of the meeting between the vice-president of student services and the student, the vice-president may recommend to the president or the president's designee either continuation or termination of the interim discipline and/or initiate disciplinary procedures in accordance with WAC 132R-04-112 through 132R-04-160.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-064, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-067 Readmission after major discipline. Any petition for readmission by a student suspended or expelled for disciplinary reasons other than poor scholarship must be addressed to the office of the vice-president of student services. Such a petition must be in writing and must state in detail the reasons why the penalty should be reconsidered. Since the president of the college or his/her designee participates in disciplinary decisions suspending/expelling students from the college, decisions on such petitions for readmission must be reviewed and approved by the president before being announced to the petitioner.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-067, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-070 Repealed. See Disposition Table at beginning of this chapter.

WAC 132R-04-080 Repealed. See Disposition Table at beginning of this chapter.

WAC 132R-04-090 Repealed. See Disposition Table at beginning of this chapter.

WAC 132R-04-100 Delegation of disciplinary authority. The board, acting pursuant to RCW 28B.50.140(14), do by written order delegate to the president of the college authority to administer the disciplinary action prescribed in WAC 132R-04-150. All disciplinary actions in which there is a recommendation that a student be suspended or expelled, shall be acted upon by the president or his/her designee as listed in the Big Bend Community College board of trustees policy book, section BP 1004.5.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-100, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-100, filed 12/5/69.]

WAC 132R-04-110 Repealed. See Disposition Table at beginning of this chapter.

WAC 132R-04-112 Discipline statement. (1) The vice-president of student services is the primary agent for the administration of discipline for unacceptable conduct or infraction of college rules except those which are the responsibility of divisions and instructors as hereafter described.

(a) The division chair and faculty of each division are responsible for the administration of discipline for infraction of rules and regulations of the college or for unacceptable conduct by students in matters relating to their academic progress.

(b) The instructor is responsible for the maintenance of order and proper conduct in the classroom. He/she is authorized to impose interim suspension as may be necessary to preserve order and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

(2) The instructor of each course shall be responsible for the maintenance of order and proper student conduct in a classroom. Each instructor is authorized to impose interim suspension in order to preserve order and to maintain effective cooperation of the class in fulfilling the objective of the course. In the event of disruptive classroom conduct, academic misconduct, and/or dishonesty, the instructor may take any and all reasonable action against any student. A course of action might include, but not be limited to:

(a) Issuing a failing grade on a particular test, paper, assignment, or course.

(b) Dismissing the student(s) from class pending a hearing with the vice-president of student services.

(c) Dropping the student from the course.

(d) Referring the case to local authorities for civil action.

(3) An instructor taking action against any student for an act of disruptive classroom conduct, academic misconduct, and/or dishonesty, shall report such action in writing to the division chair, appropriate dean, vice-president of student services, and vice-president of instructional services as soon as possible. Any student subject to action of an instructor for a code of conduct violation may seek review of that action by the vice-president of student services. The student disciplinary review request must be submitted in writing to the vice-president of student services within ten working days from the date of said disciplinary action.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-112, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-115 Disciplinary action. (1) A student charged with unacceptable conduct is entitled to a fair hearing. The procedures set forth below shall be interpreted and administered in such a way as to accomplish this objective. Disciplinary proceedings are not to be construed as judicial trials; care will be taken to comply as fully as possible with the spirit and intent of procedural safeguards relative to the rights of the individual concerned.

(a) When disciplinary action is initiated by a faculty member for disruptive classroom conduct, academic misconduct, and/or dishonesty, a written report of the occurrence shall be filed with the division chair, appropriate dean, vice-president of student services, and vice-president of instruction.

(b) All other instances of misconduct shall be reported to the vice-president of student services.

(c) Any student accused of violating any provisions of the rules of student conduct **shall** be called for an initial conference with the vice-president of student services or his/her designated representative, and **shall** be informed of what provision of the rules of student conduct have been violated, and the maximum penalties, if any, which might result from initiation of a disciplinary proceeding.

(2) After considering the evidence in the case and interviewing the student or students accused of violating the rules of student conduct, the vice-president of student services or his/her designated representative may take any of the following actions:

(a) Terminate the proceedings, exonerating the student or students;

(b) Dismiss the case after whatever counseling and advice may be appropriate;

(c) Impose minor sanctions directly (warning or reprimand);

(d) Refer the case to the disciplinary committee.

(3) Should a disciplinary committee hearing be necessary, the student shall be notified **in writing** as to the date, time, place of the hearing, and charge(s), including reference to the particular sections of the rules of student conduct involved. He/she shall be permitted to examine the evidence against him/her and where pertinent shall be given the names of those who will be witnesses against him/her. In the hearing he/she may present evidence, testimonial or documentary, in his/her behalf.

(4) The president or vice-president of student services shall notify the student in writing of the final determination on any charge of unacceptable conduct. In the case of a student under eighteen years of age who is expelled, suspended or placed on disciplinary probation, the parents or guardian of the student shall also be notified in writing. (This does not apply to emancipated minors.)

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-115, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-117 Disciplinary committee. (1) The committee shall be a standing committee composed of one administrator appointed by the president, two faculty members selected by the college faculty association and two students selected by the student government.

(2) If any member of the committee is unable to consider a particular disciplinary proceeding for any reason including a conflict of interest, such member shall be temporarily replaced by a student or faculty member as appropriate pursuant to the procedure established in this section.

(3) The disciplinary committee shall conduct such hearing within twenty working days after disciplinary action has been referred to such committee and shall give the student charged with violation of the rules of student conduct a minimum notice of five working days of said hearing as specified within the following section. With the mutual agreement of

the parties, the hearing date may be continued beyond the twenty working day limit.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-117, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-120 Repealed. See Disposition Table at beginning of this chapter.

WAC 132R-04-130 Disciplinary committee procedures. (1) The hearing panel will hear, de novo, and make recommendations to the president of the college on all disciplinary cases referred to it by the vice-president of student services.

(2) The student has a right to a fair and impartial hearing before the disciplinary committee on any charge of violating the rules of student conduct. The student's failure to cooperate with the hearing procedures hereinafter outlined, however, shall not preclude the disciplinary committee from making its findings of fact, conclusions and recommendations as provided herein.

(3) The student shall be given written notice of the time and place of the hearing before the disciplinary committee by personal service or registered mail and be afforded not less than five working days notice thereof. Said notice shall contain:

(a) A statement of the time, place and nature of the disciplinary proceeding.

(b) A statement of the charges against him/her including reference to the particular sections of the rules of student conduct involved.

(4) The student shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its source; he/she shall be entitled to present evidence in his/her own behalf and cross examine witnesses testifying against him as to factual matters.

(5) The student has the right to be assisted by any (one) advisor he/she may choose, at his/her own expense. The advisor may be an attorney. The student is responsible for presenting his/her own case and, therefore, advisors are not permitted to speak or to participate directly in a hearing. The accused student can, however, speak with his/her advisor during the hearing. If the student utilizes an attorney as an advisor, the student shall give the vice-president of student services three days' notice of intent to do so.

(6) In all disciplinary proceedings, the college may be represented by a designee appointed by the vice-president of student services; said designee may then present the college's case against the student accused of violating the rules of student conduct, provided that in those cases in which the student elects to have a licensed attorney act as his/her advisor, the vice-president of student services may elect to have the college represented by an assistant attorney general.

(7) If, at the conclusion of the hearing, the committee finds that the student has committed one or more violations, and that such violations are in fact violations of a rule or rules of student conduct, the committee shall make such a finding and recommend such disciplinary action as they shall deem appropriate against the student. Prior acts of misconduct may be considered in making the recommendation for disciplinary action.

(8) During the course of the proceeding an adequate summary of all the evidence and facts will be taken. A copy shall be available at the office of the vice-president of student services.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-130, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-130, filed 12/5/69.]

WAC 132R-04-140 Disciplinary committee decision. Upon conclusion of the disciplinary hearing, the disciplinary committee shall consider all the evidence therein presented and decide by majority vote as to the specific findings and conclusions required pursuant to WAC 132R-04-130, and whether to recommend to the president any of the following actions:

(1) That the college terminate the proceedings and exonerate the student or students;

(2) That the president or his/her designee impose any of the disciplinary action as provided in WAC 132R-04-150.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-140, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-140, filed 12/5/69.]

WAC 132R-04-150 Imposition of discipline. (1) The college president or his/her designee shall review all hearings for which the disciplinary committee has recommended disciplinary action and determine whether or not disciplinary action shall be imposed against the said student. With the exception of interim discipline as authorized by WAC 132R-04-064, the college president or his/her designee shall have no authority to impose any disciplinary action on a student unless disciplinary action has been recommended by the disciplinary committee against such student or unless such student has waived his/her right to a hearing before such disciplinary committee.

(2) In determining whether or not to impose disciplinary action against a student, the president shall review the summary of the evidence and facts presented to the disciplinary committee and the recommendation of the disciplinary committee, the college president shall then determine whether or not to impose disciplinary action in any form. Prior acts of misconduct may be considered in making a decision.

(3) Discipline may be imposed by the college president or his/her designee for violations of the rules of conduct, not only in those instances where the disciplinary committee has made recommendations after a hearing, but also in cases where the student has waived his/her right to such a hearing. Sanctions available to the president are described in WAC 132R-04-056 and 132R-04-063.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-150, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-150, filed 12/5/69.]

WAC 132R-04-160 Student appeal. Any student feeling aggrieved by the recommendations of the disciplinary committee or the order of the college president or his/her designee imposing disciplinary action may appeal the same in writing by directing an appeal to the college president or his/her designee within fifteen days following receipt of the order of the president or his/her designee imposing disciplinary action. The college president or his/her designee may, at

his/her discretion, suspend any disciplinary action pending determination of the merits of the findings, conclusions and disciplinary action imposed.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-160, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-160, filed 12/5/69.]

WAC 132R-04-165 Maintenance of disciplinary records. (1) The vice-president of student services shall keep records of all disciplinary cases. The division chair shall report to the vice-president of student services and appropriate dean, in writing, all cases in which disciplinary action is taken.

(2) The vice-president of student services shall notify the chair and the dean of the division in which the student is enrolled and the dean of enrollment services of any disciplinary action taken, which is to be recorded on the student's official record, and shall keep accurate records of all disciplinary cases handled by, or reported to, his/her office.

(3) The vice-president of student services shall receive and maintain certain records of all disciplinary action taken by any college employee. These records should be consulted by disciplinary authorities for records of previous misconduct before taking disciplinary action in any case.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-165, filed 7/14/03, effective 8/14/03.]

WAC 132R-04-170 Criminal prosecution. College personnel or students may refer any student code of conduct violations which are also violations of federal or state law to the proper authorities for disposition.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-04-170, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-170, filed 12/5/69.]

Chapter 132R-05 WAC

LOSS OF ELIGIBILITY—STUDENT ATHLETIC PARTICIPATION

WAC

132R-05-010 Immediate suspension.

WAC 132R-05-010 Immediate suspension. Student athletes found to have violated chapter 69.41 RCW, Legend drugs—Prescription drugs, shall, upon conviction, be immediately suspended from participation in school-sponsored athletic events by the athletic director. The period of loss of eligibility to participate will be determined by the athletic director at the conclusion of a brief adjudicative hearing(s) as detailed in the Big Bend Community College athletic handbook, to be commenced within twenty days of the suspension.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-05-010, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-017, § 132R-05-010, filed 12/26/89, effective 1/1/90.]

Chapter 132R-12 WAC

DESIGNATING AUTHORITY—EXEMPTIONS FROM HIGHER EDUCATION PERSONNEL LAW

WAC

132R-12-010 Designation of appointing authority.
132R-12-020 Classified employee exemptions.

WAC 132R-12-010 Designation of appointing authority. Pursuant to WAC 251-04-020(2), the position of "appointing authority" at Big Bend Community College is designated:

(1) The president or the person occupying the position of president at Big Bend Community College is designated as the "appointing authority" for purposes of RCW 28B.50.140 (14).

(2) The president of Big Bend Community College is delegated authority by written order of the board of trustees.

(3) Pursuant to RCW 28B.10.528, the board of trustees hereby delegates to the president executive responsibility of administering the policies adopted by the board of trustees and executing all decisions of the board of trustees requiring administrative action. Pursuant to RCW 28B.50.140(14), the board expressly delegates the appointing authority in matters concerning all Big Bend Community College District 18 personnel to the president. This delegation does not include a delegation of powers related to the position of president and also excludes a delegation of powers related to decisions regarding approval or denial of faculty tenure. This delegation includes a delegation of authority to hire, terminate, suspend, reassign, discipline, or demote personnel without prior approval of the board of trustees.

(4) The board delegates the appointing authority of the college to the persons occupying the following positions in the president's absence: Vice-president of instruction, vice-president for administrative services and vice-president of student services (hereinafter collectively referred to as "senior administrators"). The appointing authority delegated to the senior administrators shall only be exercised if the following criteria are met: The president must be absent. Absent means that the individual has taken formal medical, vacation or personal leave; is not available in person, by telephone, by pager or other reasonable means; and/or has left prior written notice indicating an "absent" status. No administrator shall exercise any authority unless all administrators preceding them on the senior administrators' order of positions list are also absent as previously defined.

(5) Senior administrators' order of positions list:

(a) Vice-president for administrative services;

(b) Vice-president of instruction;

(c) Vice-president of student services;

The senior administrators who are able to establish that the president and other administrators who precede them on the order of positions list are absent shall have the authority to hire, terminate, suspend, reassign, discipline or demote any Big Bend Community College District 18 personnel (with the exception of the president or other senior administrators as defined herein) without prior approval of the board of trustees. This delegation of power does not include the ability to render decisions related to the granting or denial of tenure.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-12-010, filed 7/14/03, effective 8/14/03. Statutory Authority:

RCW 28B.50.140. 90-02-019, § 132R-12-010, filed 12/26/89, effective 1/26/90; Order 70-4, § 132R-12-010, filed 3/5/70.]

WAC 132R-12-020 Classified employee exemptions. Pursuant to RCW 41.06.070, the following positions at Big Bend Community College and in Community College District No. 18, state of Washington, are deemed exempt from the provisions of chapter 41.06 RCW:

(1) Members of the board of trustees.

(2) President.

(3) Major administrative officers:

(a) Vice-president of instruction.

(b) Vice-president for administrative services.

(c) Vice-president of student services.

(4) All employees of Community College District No. 18 who are either probationary faculty appointees or tenured faculty appointees pursuant to RCW 28B.50.850 through 28B.50.869.

(5) All deans, directors, coordinators, and assistants to the president and major administrative officers analogous to vice-presidents.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-12-020, filed 7/14/03, effective 8/14/03; Order 70-4, § 132R-12-020, filed 3/5/70.]

Chapter 132R-116 WAC
TRAFFIC AND PARKING REGULATIONS

WAC

132R-116-070 Impounding of illegally parked vehicles.
132R-116-090 Parking violations.

WAC 132R-116-070 Impounding of illegally parked vehicles. The president or his/her designee(s) may order the impound and storage of any vehicle parked in areas where parking is not allowed, or parked in a space reserved for another vehicle, or illegally parked in a handicapped space. The impounding and storage shall be at the expense of either or both the owner and operator of the impounded vehicle. Neither the college nor its employees shall be liable for loss or damage of any kind resulting from such impounding and storage.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-116-070, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-019, § 132R-116-070, filed 12/26/89, effective 1/26/90; Order 73-4, § 132R-116-070, filed 3/23/73.]

WAC 132R-116-090 Parking violations. Parking violations may occur and may result in the issuance of a parking violation citation, impound, or both.

(1) Vehicles parked in a space reserved for handicapped parking and not displaying a handicapped parking permit shall be subject to citation.

(2) Vehicles parked in such a manner as to occupy more than one space shall be subject to citation.

(3) Vehicles parked in an area not specifically posted for parking shall be subject to citation. Vehicles parked in service areas, driveways, loading zones, on lawns, or areas with yellow curb shall be subject to citation, impound, or both.

(4) Vehicles parked in a posted area specifically prohibiting parking shall be subject to citation, impound, or both.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-116-090, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-019, § 132R-116-090, filed 12/26/89, effective 1/26/90; Order 73-4, § 132R-116-090, filed 3/23/73.]

Chapter 132R-117 WAC
GENERAL CONDUCT CODE

WAC

132R-117-010 Firearms and dangerous weapons.
132R-117-020 Trespass.

WAC 132R-117-010 Firearms and dangerous weapons. (1) Possession, carrying or discharge of any explosive, firearm, or other weapon (including shot guns, pistols, air guns, pellet guns, and paint-ball guns), whether loaded or unloaded, is prohibited on Big Bend Community College owned or controlled property.

(2) Only such persons who are authorized to carry firearms or other weapons as duly appointed and commissioned law enforcement officers in the state of Washington, and persons or entities authorized by contract to carry firearms in the course of their employment, shall possess firearms or other weapons issued for their possession by their respective law enforcement agencies while on campus or other college controlled property, including residence halls.

(3) Other than the persons referenced in subsection (2) of this section, members of the campus community and visitors who bring firearms or other weapons to campus must immediately place the firearms or weapons in the college-provided storage facility. The storage facility for students living at the residence halls is controlled by the residence halls coordinator. The storage facility for all other students is in the registration office and is controlled by the vice-president of student services. Both facilities are accessible during the hours of 8:00 a.m. through 4:30 p.m., Monday through Friday (excluding holidays).

(4) Anyone seeking to bring a firearm or other weapon onto campus for display or demonstration purposes directly related to a class or other educational activity must obtain prior written authorization from the vice-president of instruction or any other person designated by the president of the college. The vice-president of instruction or other designee shall review any such request and may establish conditions to the authorization.

(5) Firearms owned by the institution for use by special interest groups such as ASB gun clubs, ROTC, or intercollegiate shooting teams, must be stored in a location approved by the vice-president of student services or any other person designated by the president of the college. Said firearms must be checked out by the club advisor or coach and are to be used by legitimate members of the club or teams in the normal course of the club or team's activity.

(6) Violators shall be subject to appropriate disciplinary or legal action.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-117-010, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 92-20-077, § 132R-117-010, filed 10/5/92, effective 11/5/92.]

WAC 132R-117-020 Trespass. (1) The president of the college or his/her designee is authorized in the instance of

any event that is deemed to be unreasonably disruptive of order or which impedes the movement of persons or vehicles or which seems to disrupt the ingress and/or egress of persons from facilities owned and/or operated by the college, then the president or his/her designee shall have the power and authority subject to the students' right of demonstration as guaranteed pursuant to WAC 132R-04-040 to:

(a) Prohibit the entry of, or withdraw the license or privilege of any person or persons or any group of persons to enter onto or remain upon all or any portion of a college facility which is owned and/or operated by the college; or

(b) Give notice against trespass by any manner specified in chapter 9A.52 RCW to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from entering onto or remaining upon all or any portion of a college facility, which college facility is owned and/or operated by the college; or

(c) Order any person, persons or group of persons to leave or vacate all or any portion of a college facility which is owned and/or operated by the college.

(2) Any student who shall disobey a lawful order given by the president or his/her designee pursuant to the requirements of this rule, may be subject to criminal prosecution and may be subject to disciplinary action.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-117-020, filed 7/14/03, effective 8/14/03.]

Chapter 132R-118 WAC

TRAFFIC AND PARKING REGULATIONS FOR BICYCLES, MOTORCYCLES AND MOTORSCOOTERS

WAC

132R-118-010	Purpose.
132R-118-020	Bicycles, motorcycles, motorscooters, snowmobiles, skateboards, skates, in-line skates and all-terrain vehicles defined.
132R-118-030	Applicable rules and regulations.
132R-118-040	Operation of bicycles, motorcycles, motorscooters, snowmobiles, skateboards, skates, in-line skates and all-terrain vehicles.

WAC 132R-118-010 Purpose. The primary objective of the rules and regulations set forth in this chapter is to provide safety, traffic, and parking controls for the use of bicycles, motorcycles, motorscooters, snowmobiles, skateboards, skates, in-line skates and all-terrain vehicles upon all state lands devoted to the educational, recreational, and living activities of Big Bend Community College.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-118-010, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-019, § 132R-118-010, filed 12/26/89, effective 1/26/90; Order 73-4, § 132R-118-010, filed 3/23/73.]

WAC 132R-118-020 Bicycles, motorcycles, motorscooters, snowmobiles, skateboards, skates, in-line skates and all-terrain vehicles defined. A bicycle shall be, for the purposes of this section, any vehicle with three or less wheels and containing a saddle seat, and which is not motor driven. Any vehicle with three or less wheels and containing a saddle seat, and which is motor driven is considered a motorcycle or motorscooter for the purposes of this section. Any vehicle with ski(s) and a track-type drive designed for travel over snow is considered a snowmobile for the purposes of this section. Any unit consisting of a board with two or more wheels attached to the underside that is propelled by the use of a persons foot is considered a skateboard for this section. For the purposes of this section, any shoe-skate with four wheels is considered a skate, and any shoe-skate with three or more wheels attached in a straight line is considered an in-line skate. Any vehicle with three or four wheels and containing a saddle-type seat, which is motor driven is considered an all-terrain vehicle for the purpose of this section.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-118-020, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-019, § 132R-118-020, filed 12/26/89, effective 1/26/90; Order 73-4, § 132R-118-020, filed 3/23/73.]

WAC 132R-118-030 Applicable rules and regulations. The safety, traffic, and parking regulations for bicycles, motorcycles, motorscooters, snowmobiles, skateboards, skates, in-line skates and all-terrain vehicles which are applicable upon the campus of Big Bend Community College are as follows:

(1) The motor vehicle and other traffic laws of the state of Washington;

(2) Special regulations set forth in this chapter.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-118-030, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-019, § 132R-118-030, filed 12/26/89, effective 1/26/90; Order 73-4, § 132R-118-030, filed 3/23/73.]

WAC 132R-118-040 Operation of bicycles, motorcycles, motorscooters, snowmobiles, skateboards, skates, in-line skates and all-terrain vehicles. (1) No bicycle, motorcycle, or motorscooter may be operated on sidewalks, walkways, lawns, or other property not set aside for such purposes on the Big Bend Community College campus.

(2) Bicycles, motorcycles, motorscooters, and all-terrain vehicles may be operated any place where automobiles or other motor vehicles are permitted.

(3) Snowmobiles, skateboards, skates and in-line skates are prohibited as a means of transportation or recreation on campus property.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-118-040, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-019, § 132R-118-040, filed 12/26/89, effective 1/26/90; Order 73-4, § 132R-118-040, filed 3/23/73.]

Chapter 132R-136 WAC

USE OF COLLEGE FACILITIES

WAC

132R-136-010	Philosophy and purpose concerning the use of college facilities.
132R-136-030	Eligibility for use of college facilities.
132R-136-035	Use of college facilities by ASB organizations.
132R-136-055	Commercial activities.
132R-136-060	Outside speakers.
132R-136-070	Distribution of materials.
132R-136-080	Posting of materials.

WAC 132R-136-010 Philosophy and purpose concerning the use of college facilities. The Big Bend Community College board of trustees has determined that college facilities shall be made available for community use. College facilities shall be used for those activities that are related

directly to its educational mission or are justifiable on the basis of their contributions to the cultural, social, or economic development of the community and state.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-136-010, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-019, § 132R-136-010, filed 12/26/89, effective 1/26/90; Order 73-4, § 132R-136-010, filed 3/23/73.]

WAC 132R-136-030 Eligibility for use of college facilities. Application for use of college facilities can be made by contacting the college. Contracts for the use of college facilities shall be completed and returned by an agent of the organization prior to final approval. Information concerning facility rental regulations, procedures, fees, and liabilities may be found in the *Administrative Process Manual AP8051*.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-136-030, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-019, § 132R-136-030, filed 12/26/89, effective 1/26/90; Order 73-4, § 132R-136-030, filed 3/23/73.]

WAC 132R-136-035 Use of college facilities by ASB organizations. Any recognized ASB organization may request approval from the director of student programs to utilize available college facilities for authorized activities as provided for in official ASB documents. Facilities will be provided free of charge to the organization except when such use necessitates staffing and services beyond regular college requirements. Standard college fees will be charged in these cases.

Use of facilities for purposes other than those approved or in an irresponsible manner may result in withdrawal of this privilege for an organization.

Student organizations should schedule facility use requests with the appropriate office at least two weeks in advance of an event whenever possible.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-136-035, filed 7/14/03, effective 8/14/03.]

WAC 132R-136-055 Commercial activities. (1) College facilities shall not be used for commercial solicitation, advertising or promotional activities except when such activities clearly serve educational objectives, including, but not limited to, display of books of interest to the academic community or the display or demonstration of technical or research equipment, and when such commercial activities related to educational objectives and are conducted under the sponsorship or at the request of a college department or office of the associated student body, provided that such solicitation does not interfere with or operate to the detriment of the conduct of the college affairs or the free flow of pedestrian or vehicular traffic.

(2) For the purpose of this section, the term "commercial activities" does not include handbills, leaflets, newspapers and similarly related materials as regulated in WAC 132R-136-070.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-136-055, filed 7/14/03, effective 8/14/03.]

WAC 132R-136-060 Outside speakers. The trustees, administration and the faculty of the college subscribe to the proposition that an important aspect of the education of college students is the opportunity to listen to speakers representing a wide variety of opinions and beliefs on important public issues. In conformity with the American tradition of free speech and free inquiry, the following policies are established governing the appearance on campus of speakers not themselves members of the college community.

(1) Any recognized ASB campus student organization may invite speakers on campus subject to the legal restraints imposed by the laws of the United States and the state of Washington.

(2) The appearance of an invited speaker on the campus does not represent an endorsement, either implicit or explicit, of his/her views by the college, its students, its faculty, its administration or its board.

(3) The scheduling of facilities for guest lecturers or invited speakers shall be made through the office of the vice-president of instruction or the director of student programs, by the inviting instructor or campus student organization.

(4) The vice-president of instruction or the director of student programs will be notified at least three days prior to the appearance of an invited speaker, at which time a proper form (available in the office of the vice-president of instruction or director of student programs) must be completed with all particulars regarding speaker, time, place, etc., signed by the sponsoring instructor or organization advisor, and filed with the office of the vice-president of instruction or the director of student programs. Exceptions to the three-day ruling may be made by either of the identified administrators.

(5) The vice-president of instruction or the director of student programs may require a question period or arrange to have views other than those of the invited speakers represented at the meeting, or at a subsequent meeting. The president or his/her designee may assign faculty or staff to preside over any meeting where a speaker has been invited.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-136-060, filed 7/14/03, effective 8/14/03.]

WAC 132R-136-070 Distribution of materials. (1) Handbills, leaflets, newspaper and similar related matter may be sold or distributed free of charge by any student or students or by members of recognized student organizations or by college employees on or in college facilities at locations specifically designated by the vice-president of student services or by his/her designee; provided such distribution or sale does not interfere with the ingress and egress of persons, or interfere with the free flow of vehicle or pedestrian traffic.

(2) Such handbills, leaflets, newspapers and related matter must bear identification as to the publishing agency and distributing organization or individual.

(3) All nonstudents shall be required to register with the vice-president of student services or with his/her designee prior to the distribution of any handbill, leaflet, newspaper or related matter. Nonstudents shall not be allowed to sell handbills, leaflets, newspapers or related matter on or in college facilities.

(4) The dissemination or distribution of materials by persons on public streets, walks and hallways of the campus shall be subject to the laws of the city of Moses Lake, Grant County, state of Washington and the United States of America.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-136-070, filed 7/14/03, effective 8/14/03.]

WAC 132R-136-080 Posting of materials. The college encourages free expression. Use of college facilities as provided herein, however, does not accord users the opportunity to post commercial solicitations, advertising or promotional materials without permission.

Permission for posting literature in the various restricted areas provided, therefore, shall be obtained from the vice-president of student services or his/her designee. Permission to post literature does not accord users immunity from legal action which may occur from posting said material.

ASB campaign rules govern special poster and sign locations for ASB elections. Information on these special policies, restricted areas and regulations is available in the office of student programs.

Posting of posters, signs and other publicity or promotional materials is permitted only in locations specified above. All materials sought to be posted in restricted posting areas must have the identity of its sponsorship appearing on its face.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-136-080, filed 7/14/03, effective 8/14/03.]

Chapter 132R-144 WAC
BOOKSTORE OPERATING PROCEDURES

WAC

132R-144-010 Big Bend Community College bookstore operating procedures.
132R-144-020 Return and refund policy.

WAC 132R-144-010 Big Bend Community College bookstore operating procedures. Big Bend Community College bookstore is operated for the support and use of students and staff of Big Bend Community College. Big Bend Community College bookstore may engage in the direct and on-line sale of goods and services to individuals, groups, or external agencies for fees only when those services or goods are directly and substantially related to the educational mission of the college as outlined in Big Bend Community College's business competition policy.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-144-010, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-019, § 132R-144-010, filed 12/26/89, effective 1/26/90; Order 73-4, § 132R-144-010, filed 3/23/73.]

WAC 132R-144-020 Return and refund policy. (1) Defective merchandise may be returned within a reasonable time for replacement or refund at the discretion of the bookstore manager.

(2) Course materials may be returned for refund on specified dates as established and posted by the bookstore manager. The proper sales slip must be presented.

(3) Exceptions to the above are subject to the discretion of the bookstore manager.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-144-020, filed 7/14/03, effective 8/14/03; Order 73-4, § 132R-144-020, filed 3/23/73.]

Chapter 132R-150 WAC
LIBRARY POLICIES

WAC

132R-150-030 Repealed.
132R-150-050 Smoking.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132R-150-030 Inspection. [Order 73-4, § 132R-150-030, filed 3/23/73.] Repealed by 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.

WAC 132R-150-030 Repealed. See Disposition Table at beginning of this chapter.

WAC 132R-150-050 Smoking. Smoking is prohibited in all college buildings.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-150-050, filed 7/14/03, effective 8/14/03; Order 73-4, § 132R-150-050, filed 3/23/73.]

Chapter 132R-158 WAC
RESIDENCE HOUSING POLICIES

WAC

132R-158-010 Resident housing policies.

WAC 132R-158-010 Resident housing policies. In addition to the rules, regulations, and responsibilities as defined in the "Student Rights and Responsibilities" handbook, residence hall students are also subject to the rules and regulations as printed in both the residence hall handbook and the residence hall contract. Copies are available from the residence hall coordinator at Big Bend Community College.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-158-010, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-019, § 132R-158-010, filed 12/26/89, effective 1/26/90; Order 73-4, § 132R-158-010, filed 3/23/73.]

Chapter 132R-175 WAC
PUBLIC RECORDS

WAC

132R-175-010 Purpose.
132R-175-020 Definitions.
132R-175-030 Description of central and field organization of Community College District No. 18.
132R-175-050 Public records available.
132R-175-060 Public records officer.
132R-175-080 Requests for public records.
132R-175-090 Copying.
132R-175-100 Exemptions.
132R-175-110 Review of denials of public records requests.
132R-175-120 Protection of public records.
132R-175-130 Records index.
132R-175-140 District's address.

WAC 132R-175-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Community College District No. 18 with the provisions of chapter 42.17 RCW, Disclosure—Campaign finances—Lobbying—Records; and in particular with RCW 42.17.250 through 42.17.348 that deal with public records.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-175-010, filed 7/14/03, effective 8/14/03; Order 73-8, § 132R-175-010, filed 5/4/73.]

WAC 132R-175-020 Definitions. (1) "Public record" indicates any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds; or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

(3) "Community College District No. 18" was established pursuant to the Community College Act of 1967. Community College District No. 18 shall hereinafter be referred to as the "district." Where appropriate, the term Community College District No. 18 also refers to the staff and employees of the Community College District No. 18.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-175-020, filed 7/14/03, effective 8/14/03; Order 73-8, § 132R-175-020, filed 5/4/73.]

WAC 132R-175-030 Description of central and field organization of Community College District No. 18. The Community College District No. 18 is an institution of higher education. The administrative office of the district and its staff are located at Moses Lake, Washington.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-175-030, filed 7/14/03, effective 8/14/03; Order 73-8, § 132R-175-030, filed 5/4/73.]

WAC 132R-175-050 Public records available. All public records of the district, as defined in WAC 132R-175-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-175-050, filed 7/14/03, effective 8/14/03; Order 73-8, § 132R-175-050, filed 5/4/73.]

WAC 132R-175-060 Public records officer. The district's public records shall be managed by the public records officer as designated by the district. The person so designated shall be located in the business office of the district. The public records officer shall be responsible for the following: The implementation of the district's rules and regulations regarding release of public records, coordinating the staff of the district in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-175-060, filed 7/14/03, effective 8/14/03; Order 73-8, § 132R-175-060, filed 5/4/73.]

WAC 132R-175-080 Requests for public records. In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the district which shall be available at its administrative office. The form shall be presented to the public records officer; or to any member of the district's staff, if the public records officer is not available, at the administrative office of the district during customary office hours. The request shall include the following information:

(a) The name of the person requesting the record;

(b) The time of day and calendar date on which the request was made;

(c) The nature of the request;

(d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the district's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-175-080, filed 7/14/03, effective 8/14/03; Order 73-8, § 132R-175-080, filed 5/4/73.]

WAC 132R-175-090 Copying. No fee shall be charged for the inspection of public records. The district shall charge a fee of twenty-five cents per page of copy for providing copies of public records and for use of the district copy equipment. This charge is the amount necessary to reimburse the district for its actual costs incident to such copying. At least five working days may be required to provide copies of public records.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-175-090, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 78-02-017 (Order 3), § 132R-175-090, filed 1/11/78; Order 74-22, § 132R-175-090, filed 12/23/74; Order 73-8, § 132R-175-090, filed 5/4/73.]

WAC 132R-175-100 Exemptions. (1) The district reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 132R-175-080 is exempt under the provisions of RCW 42.17.310. All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

(2) In addition, pursuant to chapter 42.17 RCW, the district reserves the right to delete/redact portions of documents. If deletions/redactions are made they will be accompanied by a written statement specifying the reason for the deletion/redaction, including a statement of the specific exemp-

tion authorizing the deletion/redaction and a brief explanation of how the exemption applies to the information which is deleted/redacted.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-175-100, filed 7/14/03, effective 8/14/03; Order 73-8, § 132R-175-100, filed 5/4/73.]

WAC 132R-175-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the president of the college. The president shall immediately consider the matter and either affirm or reverse such denial or call a special meeting of the board of trustees as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the district has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-175-110, filed 7/14/03, effective 8/14/03; Order 73-8, § 132R-175-110, filed 5/4/73.]

WAC 132R-175-120 Protection of public records. The location of the public records officer appointed pursuant to WAC 132R-175-060 shall be in the business office. The public records officer shall establish a central district index which shall be the district's master index to be coordinated with subsidiary indexes established in each major administrative area of the college, specifically:

(1) The office of the secretary to the board of trustees of the district (which is the office of the president of Big Bend Community College);

(2) The office of the president of Big Bend Community College;

(3) The office of the vice-president of instruction;

(4) The office of the vice-president of student services;

(5) The office of the vice-president for administrative services; and/or

(6) Upon receiving requests for public records in the manner prescribed in WAC 132R-175-080, it shall be the duty of the public records officer to immediately act upon the request. If it is determined the item requested is a public record as defined in WAC 132R-175-020 it shall be the duty of the public records officer to locate the public record in the office in which it is filed and make it available for inspection. If, in the judgment of the public records officer, there be a possibility of the destruction of the public record, then the public records officer shall make available a copy of the record. Upon request the public records officer shall make available copies of public records in accordance with WAC 132R-175-090.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-175-120, filed 7/14/03, effective 8/14/03; Order 73-8, § 132R-175-120, filed 5/4/73.]

WAC 132R-175-130 Records index. (1) The district shall make available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since its inception:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statue and the constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) The current index promulgated by the district shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-175-130, filed 7/14/03, effective 8/14/03; Order 73-8, § 132R-175-130, filed 5/4/73.]

WAC 132R-175-140 District's address. All communications with the district including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.17 RCW and these rules; requests for copies of the district's decisions and other matters, shall be addressed as follows: Big Bend Community College, Community College District No. 18, c/o Public Records Officer, 7662 Chanute Street, Moses Lake, Washington 98837-3299.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-175-140, filed 7/14/03, effective 8/14/03; Order 73-8, § 132R-175-140, filed 5/4/73.]

Chapter 132R-190 WAC

IMPLEMENTATION OF THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974

WAC

132R-190-010	Purpose.
132R-190-020	Definitions.
132R-190-030	Right of inspection.
132R-190-035	Availability of directory information.
132R-190-040	Access permitted to college and certain other officials without consent.
132R-190-050	Distribution of information to others.
132R-190-070	Requests for access to student records.
132R-190-100	Procedure for challenges.

132R-190-110 Disciplinary records.

WAC 132R-190-010 Purpose. The purpose of this chapter is to implement 20 U.S.C. Sec. 1232g, the Family Educational Rights and Privacy Act of 1974 as amended, by establishing rules and procedures to ensure that information contained in student records is accurate and is handled in a responsible manner by the college and its employees. Further information on policies and procedures relative to student records is available in the student records section of the "*Student Handbook*."

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-190-010, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 94-07-019, § 132R-190-010, filed 3/8/94, effective 4/8/94; 90-02-019, § 132R-190-010, filed 12/26/89, effective 1/26/90; Order 76-9, § 132R-190-010, filed 3/9/76.]

WAC 132R-190-020 Definitions. The following definitions shall apply in interpreting these regulations:

(1) "Directory information" means information contained in a student's education record which is general in nature and does not constitute an invasion of privacy if disclosed. The college has designated directory information in WAC 132R-190-035.

(2) "Education records" means those records, files, documents and other materials which contain information directly related to a student and are maintained by the college or a person acting for the college. The term does not include:

(a) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute.

(b) If the personnel of a law enforcement unit do not have access to education records under this section, the records and documents of such law enforcement unit which are kept separate, are maintained solely for law enforcement purposes, and are not made available to persons other than law enforcement officials of the same jurisdiction.

(c) In the case of persons who are employed by the college but who are not in attendance at the college, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose.

(d) Records on a student attending the college, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity, and which are made or maintained, or used in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(3) "Student" means any individual who is or has been in attendance at Big Bend Community College and on whom educational records are maintained.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-190-020, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 94-07-019, § 132R-190-020, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-020, filed 3/9/76.]

WAC 132R-190-030 Right of inspection. Any student shall have a right, subject to the procedural requirements outlined in WAC 132R-190-070 through 132R-190-090 of these regulations, to inspect any and all education records directly related to him or her that is intended for school use or that is available for parties outside the school. Education records will be made available to the student within fifteen working days after receipt of the request to inspect the records. Copies may be requested and shall be provided at a fee not to exceed the actual cost to the college of providing the copies.

The college reserves the right to refuse to permit a student to inspect and review the following education records:

(1) The financial statement of the student's parents.

(2) Confidential letters and statements of recommendation which were placed in the student's records before January 1, 1975, or for which the student has waived his or her right in writing to inspect and review and that are related to the student's admission, application for employment or job placement, or receipt of honors. Except that if these statements and letters have been used for any purpose other than that for which they were originally prepared, the student may inspect and review them. When a record contains personally identifiable information about more than one student, a student may inspect only that information which relates to him or her.

(3) Records connected with admission to the college, application for employment, and receipt of an honor or honorary recognition.

(4) Those records which are excluded from the definition of "education records" in WAC 132R-190-020(2).

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-190-030, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 94-07-019, § 132R-190-030, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-030, filed 3/9/76.]

WAC 132R-190-035 Availability of directory information. The following personally identifiable information contained in a student's education record shall be deemed "directory information" and unless restricted by the student may be disclosed without a student's prior written consent: Student's name, address, electronic mail address, telephone listing, date of birth, enrollment status (full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, honor roll, degrees and awards received, and the most recent previous educational agency or institution attended by the student. The college will give public notice to students annually of the matters contained in the above-designated "directory information." Each student will have ten days from the day of registration to decide if he or she wishes to have directory information released without written consent.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-190-035, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 94-07-019, § 132R-190-035, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-035, filed 3/9/76.]

WAC 132R-190-040 Access permitted to college and certain other officials without consent. (1) The following persons, individuals, agencies, or organizations shall be entitled to access to official education records of any student sub-

ject to the limitations outlined in subsection (2) of this section, without prior written consent of the student:

(a) College officials, including administrators, faculty, instructors and staff who have a legitimate educational interest within the performance of their responsibilities to the college;

(b) Officials of other colleges, schools, or school systems, upon the condition that the student is notified of the transfer and receives a copy of the record if he or she desires it and has the opportunity to challenge the content of the record, per the procedures outlined in WAC 132R-190-100;

(c) Authorized representatives of the Comptroller General of the United States, the Secretary, an administrative head of an education agency, or state and local educational authorities. State and local officials, organizations conducting studies for educational agencies or institutions provided, that except when collection of personally identifiable data is specifically authorized by federal law, any data collected by these representatives with respect to individual students shall not include information which permit the personal identification of such students;

(d) Lending institutions receiving applications from students or granting to students financial aid, and individual organizations or institutions that provide scholarships to any applicant student when such organizations or individuals make requests for students' education records in connection with a student's application for, or receipt of, financial aid;

(e) Accrediting organizations to carry out their accrediting functions;

(f) Parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1954;

(g) Appropriate parties in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of the student or other persons.

(2) The college shall maintain a record, kept with the education records of each student, indicating all agencies or organizations which have requested or obtained access to the student's education records. The custodian of the records shall indicate specifically the legitimate interest each such agency or organization has in obtaining this information. The record may be reviewed by the student.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-190-040, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 94-07-019, § 132R-190-040, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-040, filed 3/9/76.]

WAC 132R-190-050 Distribution of information to others. The college shall not furnish any personally identifiable information contained in education records directly related to a student to any person, agency, or organization other than those designated in WAC 132R-190-040, unless a written consent from the student is obtained. The college may furnish such information without the consent of the student if it is furnished in compliance with a judicial order, or pursuant to any lawfully issued subpoena, upon condition that the student is notified of all such orders or subpoenas in advance of the compliance therewith unless the court or other issuing agency orders the college not to notify the student before compliance with the subpoena. The written consent should specifically identify the records to be released, the reason for the release and to whom the records are to be released. The college president, the president's designee, or office(s) receiving a subpoena should immediately notify the attorney general.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-190-050, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 94-07-019, § 132R-190-050, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-050, filed 3/9/76.]

WAC 132R-190-070 Requests for access to student records. Personally identifiable information regarding a student will only be furnished to persons making a written request and providing to the custodian of the records information sufficient to identify the requesting party as a person who has a right to access such records.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-190-070, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 94-07-019, § 132R-190-070, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-070, filed 3/9/76.]

WAC 132R-190-100 Procedure for challenges. (1) A student wishing to exercise the rights set forth in WAC 132R-190-090 shall first discuss with the dean of enrollment services the nature of the corrective action sought by the student.

(2) If the informal proceedings required in subsection (1) of this section fail to resolve the student's challenge, the student may file with the public records officer provided for in chapter 132R-175 WAC a written request for a hearing (brief adjudicative proceeding pursuant to chapter 132R-02 WAC).

(3) Within a reasonable time after submission of a request for hearing, the president or his or her designee will appoint a hearing officer. The hearing officer may not have a direct interest in the outcome of the hearing.

(a) The hearing officer shall conduct a hearing concerning the student's request for corrective action within a reasonable time and shall reasonably in advance of the hearing notify the student of the date, time and place of the hearing.

(b) The student may, at his or her expense, be represented by one or more individuals of his or her choice at the hearing.

(c) The student and the college shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request for the hearing. A record shall be made of the hearing by means satisfactory to the college.

(d) Within ten days of the completion of the hearing, the hearing officer shall provide the parties with a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision. The decision shall be binding upon the college and the student.

(4) If the education records are held to be accurate, or not misleading or in violation of the student's right of privacy, the college will notify the student of his or her right to place in the record a statement commenting on the challenged information and/or a statement setting forth the reasons for disagreeing with the decision. Such statement will be maintained as part of the student's education records as long as the contested portion is maintained and must be disclosed if the college discloses the contested portion of the record.

(5) If information in the education record is held to be inaccurate, misleading, or in violation of the student's right of

privacy, the college will amend the record and so notify the student in writing.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-190-100, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 94-07-019, § 132R-190-100, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-100, filed 3/9/76.]

WAC 132R-190-110 Disciplinary records. Disciplinary records shall be kept separate and apart from academic records, and transcripts of a student's academic record shall contain no notation of any disciplinary action. The vice-president of student services office shall keep records of all disciplinary cases, which shall be recorded on the official records of the students. Special precautions shall be exercised to ensure that information from disciplinary or counseling files is not revealed to unauthorized persons. Provisions shall be made for periodic review and routine destruction of inactive disciplinary records by offices maintaining such records. However, the results of any disciplinary proceeding, concerning a crime of violence as defined by 18 U.S.C. Sec. 16 may be released to an alleged victim of that crime.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-190-110, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 94-07-019, § 132R-190-110, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-110, filed 3/9/76.]

Chapter 132R-200 WAC

POLICY ON PERSONNEL FILES

WAC

132R-200-010 Policy on personnel files.

WAC 132R-200-010 Policy on personnel files. Big Bend Community College shall maintain one personnel file for each employee. This file shall be in the college's human resource office. No other personnel file shall be maintained by any other officer or administrator of the college. This shall not preclude the maintenance of all lawful payroll records by the payroll office nor maintenance of other essential records by appropriate personnel for the operation of the institution.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. 03-15-063, § 132R-200-010, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. 90-02-019, § 132R-200-010, filed 12/26/89, effective 1/26/90; Order 76-30, § 132R-200-010, filed 12/23/76.]

Title 132T WAC

COMMUNITY COLLEGES—WALLA WALLA COMMUNITY COLLEGE

Chapters

132T-28 Appointing authority.

Chapter 132T-28 WAC

APPOINTING AUTHORITY

WAC

132T-28-010 through 132T-28-020 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132T-28-010 Designation of appointing authority. [Order 70-24, § 132T-28-010, filed 6/8/70.] Repealed by 03-21-049, filed 10/10/03, effective 11/10/03. Statutory Authority: RCW 28B.50.140 (3), (14) and 28B.10.528.

132T-28-020 Classified employee exemptions. [Order 70-24, § 132T-28-020, filed 6/8/70.] Repealed by 03-21-049, filed 10/10/03, effective 11/10/03. Statutory Authority: RCW 28B.50.140 (3), (14), 28B.10.528, 41.06.070(2).

WAC 132T-28-010 through 132T-28-020 Repealed. See Disposition Table at beginning of this chapter.

Title 132X WAC

COMMUNITY COLLEGES—SOUTH PUGET SOUND COMMUNITY COLLEGE

Chapters

132X-60 South Puget Sound code of student rights and responsibilities.

Chapter 132X-60 WAC

SOUTH PUGET SOUND CODE OF STUDENT RIGHTS AND RESPONSIBILITIES

WAC

132X-60-065 Distribution and posting of materials.

WAC 132X-60-065 Distribution and posting of materials. Permission for the posting of materials and literature on college property is not required in designated posting areas on the campus.

Permission for the posting of materials and literature on college property shall be obtained from the following college officials:

(1) The dean of student programs for the posting of materials in nondesignated areas in the student union building, the college center, hallways, within buildings and those areas located on campus outside of college buildings.

(2) No posting will be allowed on railings unless paint protection devices are used. Permission for any such postings must have the prior approval of the dean of student programs.

(3) The appropriate college vice-president for permission for the dissemination and distribution of materials in other areas of the college campus, buildings, or facilities.

In addition, the following apply to the posting of materials:

(4) No posting of obscene materials.

(5) No materials will be posted or tacked on trees or the covered walkway gazebo(s).

[Statutory Authority: RCW 28B.50.140(13). 03-03-089, § 132X-60-065, filed 1/16/03, effective 2/16/03; 00-05-023, § 132X-60-065, filed 2/8/00, effective 3/10/00.]

Title 136 WAC

COUNTY ROAD ADMINISTRATION BOARD

Chapters

136-60	**Standard of good practice—Maintenance of county road logs.**
136-150	**Eligibility for rural arterial trust account funds.**
136-161	**Project submittal, selection and initial allocation of RATA funds to projects.**
136-163	**Allocation of RATA funds to emergent and emergency projects.**

Chapter 136-60 WAC

STANDARD OF GOOD PRACTICE— MAINTENANCE OF COUNTY ROAD LOGS

WAC

136-60-010	Purpose and authority.
136-60-020	Definitions.
136-60-030	Submittal of annual updates.
136-60-040	Validation of annual updates.
136-60-050	Validation requirements for control fields.
136-60-060	Utilization of common computer data base.

WAC 136-60-010 Purpose and authority. RCW 46.68.124(2) provides that the county road administration board shall maintain the county road log for the purpose of computing estimated county road replacement costs and estimated annual maintenance costs for county fuel tax allocations. It further provides that each county shall submit changes, corrections, additions, and deletions (i.e., "updates") to the county road administration board which in turn are subject to validation prior to inclusion in the road log maintained by the county road administration board. This chapter describes the manner in which the county road administration board will administer this responsibility.

[Statutory Authority: Chapter 36.79 RCW. 03-05-009, § 136-60-010, filed 2/7/03, effective 3/10/03; 99-01-021, § 136-60-010, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. 96-17-013, § 136-60-010, filed 8/12/96, effective 9/12/96. Statutory Authority: Chapter 36.78 RCW. 86-23-050 (Order 64-P), § 136-60-010, filed 11/19/86.]

WAC 136-60-020 Definitions. For purposes of implementing procedures for updating, validating and maintaining the county road log, the following definitions shall apply:

(1) County road log - the listing, by county, of all roads under county jurisdiction including their description, length, milepost identification, functional class, surface type, traffic volume, and other administrative and physical inventory items that may be included.

(2) Computer data base application software - the computer data base application software by which the county road log data is updated and maintained by all counties and the county road administration board.

(3) Updates - periodic changes to the county road log involving any or all of the included data elements.

(4) Control fields - those fields within the county road log for which all updates need to be verified by the county road administration board prior to inclusion in the master county road log. Control fields are those fields utilized for the computation of gas tax allocations in accordance with RCW 46.68.124. The control fields are: Unique identifier (county road number, beginning milepost, ending milepost), jurisdiction, length, function class, surface type, surface width, right and left shoulder type, right and left shoulder width, and average daily traffic volume.

(5) Master county road log - the combination of all county road logs as kept by the county road administration board containing the county road log of all counties as of July 1st of each year.

[Statutory Authority: Chapter 36.79 RCW. 03-05-009, § 136-60-020, filed 2/7/03, effective 3/10/03; 99-01-021, § 136-60-020, filed 12/7/98, effective 1/7/99. Statutory Authority: Chapter 36.78 RCW. 86-23-050 (Order 64-P), § 136-60-020, filed 11/19/86.]

WAC 136-60-030 Submittal of annual updates. Each county shall be responsible for maintaining current information regarding its road log and, no later than May 1st of each year, shall submit an updated road log for its complete road system with all data elements as of December 31st of the preceding year. This annual update must be on computer-readable medium and written in the computer data base application software format as prescribed by the county road administration board. All updates involving changes in control fields must include supporting documentation as required in WAC 136-60-050.

[Statutory Authority: Chapter 36.79 RCW. 03-05-009, § 136-60-030, filed 2/7/03, effective 3/10/03; 99-01-021, § 136-60-030, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. 96-17-013, § 136-60-030, filed 8/12/96, effective 9/12/96. Statutory Authority: Chapter 36.78 RCW. 86-23-050 (Order 64-P), § 136-60-030, filed 11/19/86.]

WAC 136-60-040 Validation of annual updates. All control field updates will be subject to review, approval and acceptance (i.e., "validation") by the county road administration board. This process will involve reviewing the submitted documentation and conducting spot-checks as may be necessary. All such updates which are reviewed, approved and accepted by July 1st of each year will be entered into the master county road log. Noncontrol field updates will be entered into the master county road log file without review. The master county road log as of July 1st of each year will be utilized by the county road administration board for general informational purposes and:

(1) On each odd-numbered year, for computation of motor vehicle fuel tax allocations to the counties;

(2) Annually, for the computation of county arterial preservation program allocations to the counties; and

(3) On each odd-numbered year, for computation of rural arterial program allocations to the rural arterial program regions.

[Statutory Authority: Chapter 36.79 RCW. 03-05-009, § 136-60-040, filed 2/7/03, effective 3/10/03; 99-01-021, § 136-60-040, filed 12/7/98, effective

1/7/99. Statutory Authority: Chapter 36.78 RCW. 86-23-050 (Order 64-P), § 136-60-040, filed 11/19/86.]

WAC 136-60-050 Validation requirements for control fields. Each update of a road log segment that involves a change in a control field (including additions or deletions of road segments) will be validated by the county road administration board. Documentation necessary to support control field changes is as follows:

Function class - notice of FHWA approval from WSDOT.

Pavement type - statement signed by county engineer with list of pavement type changes.

Responsible agency - the responsible agency is the legislative authority of the appropriate governmental agency with the authority to make the decision required for the action, or the state or federal government person authorized to approve changes.

Addition of mileage - official document signed by responsible agency authorizing and describing the circumstances of the addition. For example, additions can occur through county legislative approval of new plat, construction/reconstruction on new alignment, or a change in jurisdiction.

Deletion of mileage - official document signed by responsible agency authorizing and describing the circumstances of the deletion. For example, deletions can occur through legislative approval of vacations or a change in jurisdiction.

Traffic volume - statement signed by county engineer with list of segments affected by change in traffic volume.

All changes to a control field will be located on appropriate map(s) with sufficient detail to identify the location of each change. All map(s) furnished in support of control field changes will be forwarded by the county road administration board to WSDOT for future map base updates.

[Statutory Authority: Chapter 36.79 RCW. 03-05-009, § 136-60-050, filed 2/7/03, effective 3/10/03; 99-01-021, § 136-60-050, filed 12/7/98, effective 1/7/99. Statutory Authority: Chapter 36.78 RCW. 86-23-050 (Order 64-P), § 136-60-050, filed 11/19/86.]

WAC 136-60-060 Utilization of common computer data base. Each county shall utilize the computer data base application software for the maintenance and updating of its county road log. This data base application software shall be prescribed by the county road administration board and each county shall be responsible for the purchase and installation of the requisite software on its own Windows compatible computer.

[Statutory Authority: Chapter 36.79 RCW. 03-05-009, § 136-60-060, filed 2/7/03, effective 3/10/03; 99-01-021, § 136-60-060, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. 96-17-013, § 136-60-060, filed 8/12/96, effective 9/12/96. Statutory Authority: Chapter 36.78 RCW. 86-23-050 (Order 64-P), § 136-60-060, filed 11/19/86.]

Chapter 136-150 WAC

ELIGIBILITY FOR RURAL ARTERIAL TRUST ACCOUNT FUNDS

WAC

136-150-022 Ascertaining the expenditures for traffic law enforcement.
136-150-023 Ascertaining the expenditures for fish passage barrier removal.
136-150-024 Repealed.
136-150-030 Identifying eligible counties.
136-150-040 Constraint of contract execution.
136-150-050 Certification required.
136-150-060 Post audit penalty.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

136-150-024 Constraint of contract execution. [Statutory Authority: Chapter 36.79 RCW. 01-17-104, § 136-150-024, filed 8/21/01, effective 9/21/01; 99-01-021, § 136-150-024, filed 12/7/98, effective 1/7/99. Statutory Authority: Chapter 36.78 RCW. 87-21-046 (Order 66), § 136-150-024, filed 10/15/87; 86-06-005 (Order 61), § 136-150-024, filed 2/20/86.] Repealed by 03-05-010, filed 2/7/03, effective 3/10/03. Statutory Authority: Chapter 36.79 RCW.

WAC 136-150-022 Ascertaining the expenditures for traffic law enforcement. In those counties in which diverted road levy or transfer of road funds has been budgeted for traffic law enforcement, the county sheriff shall submit a certification showing the actual expenditure for traffic law enforcement in the previous budget year, provided that counties with a population of less than eight thousand shall be exempt from this requirement. Such certification shall be submitted to the county road administration board no later than April 1 of each year.

[Statutory Authority: Chapter 36.79 RCW. 03-21-136, § 136-150-022, filed 10/21/03, effective 11/21/03; 01-17-104, § 136-150-022, filed 8/21/01, effective 9/21/01; 00-18-021, § 136-150-022, filed 8/28/00, effective 9/28/00; 99-01-021, § 136-150-022, filed 12/7/98, effective 1/7/99; 97-24-069, § 136-150-022, filed 12/2/97, effective 1/2/98. Statutory Authority: RCW 36.78.070 and 36.79.060. 96-17-013, § 136-150-022, filed 8/12/96, effective 9/12/96. Statutory Authority: Chapter 36.78 RCW. 87-21-046 (Order 66), § 136-150-022, filed 10/15/87.]

WAC 136-150-023 Ascertaining the expenditures for fish passage barrier removal. In those counties in which road funds have been used for removal of barriers to fish passage and accompanying streambed and stream bank repair as specified in RCW 36.82.070, the county engineer shall submit a certification showing that activities related to the removal of barriers to fish passage performed beyond the county right of way did not exceed twenty-five percent of the total costs for activities related to fish barrier removal on any one project, and that the total annual cost of activities related to the removal of barriers to fish passage performed beyond the county rights of way did not exceed one-half of one percent of the county's annual road construction budget. Such certification shall be submitted to the county road administration board no later than April 1 of each year.

[Statutory Authority: Chapter 36.79 RCW. 03-21-136, § 136-150-023, filed 10/21/03, effective 11/21/03; 03-05-010, § 136-150-023, filed 2/7/03, effective 3/10/03; 01-17-104, § 136-150-023, filed 8/21/01, effective 9/21/01; 99-01-021, § 136-150-023, filed 12/7/98, effective 1/7/99; 97-24-069, § 136-150-023, filed 12/2/97, effective 1/2/98. Statutory Authority: RCW 36.78.070 and 36.79.060. 96-17-013, § 136-150-023, filed 8/12/96, effective 9/12/96. Statutory Authority: Chapter 36.78 RCW. 87-21-046 (Order 66), § 136-150-023, filed 10/15/87.]

WAC 136-150-024 Repealed. See Disposition Table at beginning of this chapter.

WAC 136-150-030 Identifying eligible counties. All counties with a population of less than eight thousand shall be eligible to receive RATA funds. Counties with a population greater than eight thousand shall be eligible to receive RATA funds only if, during the immediately preceding calendar year:

(1) The actual expenditures for traffic law enforcement have been equal to or greater than either the amount of the diverted road levy budgeted for traffic law enforcement or the amount of road funds transferred to current expense to fund traffic law enforcement;

(2) The amount of county road funds used beyond the county right of way for activities clearly associated with removal of fish passage barriers that are the responsibility of the county did not exceed twenty-five percent of the total cost of activities related to fish barrier removal on any one project and the total cost of activities related to fish barrier removal beyond the county right of way did not exceed one-half of one percent of the county's total annual road construction budget;

(3) All road funds that have been transferred to other funds have been used for legitimate road purposes;

(4) Revenues collected for road purposes have been expended on other governmental services only after authorization from the voters of that county under RCW 84.55.050; and

(5) County road levy funds have been expended in accordance with chapter 36.82 RCW.

[Statutory Authority: Chapter 36.79 RCW. 03-05-010, § 136-150-030, filed 2/7/03, effective 3/10/03; 01-17-104, § 136-150-030, filed 8/21/01, effective 9/21/01; 99-01-021, § 136-150-030, filed 12/7/98, effective 1/7/99. Statutory Authority: Chapter 36.78 RCW. 84-16-065 (Order 56), § 136-150-030, filed 7/30/84.]

WAC 136-150-040 Constraint of contract execution. The county road administration board shall not execute a contract with any county for any RAP project unless the appropriate certifications have been submitted and unless the county has been identified as being eligible to receive RATA funds.

[Statutory Authority: Chapter 36.79 RCW. 03-05-010, § 136-150-040, filed 2/7/03, effective 3/10/03; 01-17-104, § 136-150-040, filed 8/21/01, effective 9/21/01; 99-01-021, § 136-150-040, filed 12/7/98, effective 1/7/99. Statutory Authority: Chapter 36.78 RCW. 86-06-005 (Order 61), § 136-150-040, filed 2/20/86; 84-16-065 (Order 56), § 136-150-040, filed 7/30/84.]

WAC 136-150-050 Certification required. The contract between the county road administration board and a county relative to a RAP project shall contain a certification signed by the county executive or chair of the board of county commissioners, as appropriate, that the county is in compliance with the provisions of this chapter.

[Statutory Authority: Chapter 36.79 RCW. 03-05-010, § 136-150-050, filed 2/7/03, effective 3/10/03.]

WAC 136-150-060 Post audit penalty. Every RAP project shall be subject to final examination and audit by the state auditor. In the event such an examination reveals an improper certification on the part of a county relative to compliance with provisions of this chapter, the matter shall be placed on the agenda of the next meeting of the county road administration board and may be cause for the board to withdraw or deny the certificate of good practice of that county. The board may also require that all or part of the RATA funds received by the county be returned to the county road administration board.

[Statutory Authority: Chapter 36.79 RCW. 03-05-010, § 136-150-060, filed 2/7/03, effective 3/10/03.]

Chapter 136-161 WAC

PROJECT SUBMITTAL, SELECTION AND INITIAL ALLOCATION OF RATA FUNDS TO PROJECTS

WAC

136-161-080 Limitations on allocations of RATA funds to counties.

WAC 136-161-080 Limitations on allocations of RATA funds to counties. For any project program period, no county shall receive a RATA fund allocation greater than the following maximum project RATA contribution, or percentage of the forecasted regional apportionment amount:

(1) PSR: No maximum project RATA contribution; 40% limit on percentage of the forecasted regional apportionment amount;

(2) NWR: Maximum project RATA contribution is five hundred thousand dollars, except that on one project for each county there is a maximum RATA contribution of seven hundred fifty thousand dollars; twenty percent limit on percentage of the forecasted regional apportionment amount;

(3) NER: No maximum project RATA contribution; twelve and one-half percent limit on percentage of the forecasted regional apportionment amount;

(4) SWR: No maximum project RATA contribution; fifteen percent limit on percentage of the forecasted regional apportionment amount;

(5) SER: No maximum project RATA contribution; percentage varies by county as follows:

(a) Asotin County	ten percent
(b) Benton County	fourteen percent
(c) Columbia County	eleven percent
(d) Franklin County	thirteen percent
(e) Garfield County	ten percent
(f) Kittitas County	thirteen percent
(g) Klickitat County	fourteen percent
(h) Walla Walla County	fourteen percent
(i) Yakima County	twenty percent

[Statutory Authority: Chapter 36.79 RCW. 03-11-046, § 136-161-080, filed 5/16/03, effective 6/16/03; 99-01-021, § 136-161-080, filed 12/7/98, effective 1/7/99; 98-09-070, § 136-161-080, filed 4/20/98, effective 5/21/98. Statutory Authority: RCW 36.79.060. 94-16-111, § 136-161-080, filed 8/2/94, effective 9/2/94.]

Chapter 136-163 WAC

ALLOCATION OF RATA FUNDS TO EMERGENT AND EMERGENCY PROJECTS

WAC

136-163-030 Limitations and conditions—Emergency projects.

WAC 136-163-030 Limitations and conditions—Emergency projects. To be eligible for emergency project approval, the county must declare an emergency as provided for in RCW 36.40.180. If there is not yet a state declaration of

emergency, the county must also, in consultation with the state military department, emergency management division and the WSDOT, evaluate the probability of receiving a state declaration of emergency. A state declaration of emergency is required as a condition of receiving federal funding for road-related damages via the Emergency Relief Program or FEMA. If such federal funding has been approved or is likely to be approved, the county road administration board may provide up to one hundred percent of a county's required matching funds for such federal funding but only after the approval of the federal funds.

Should such federal funding not be forthcoming, or if the emergency is of such a scope and size that federal funding is clearly improbable, the county road administration board may provide up to eighty percent or ninety percent of the estimated eligible damages depending upon the regional limitations as provided for in WAC 136-161-090, with the total project cost limited to the actual expenditures by the county.

[Statutory Authority: Chapter 36.79 RCW. 03-05-011, § 136-163-030, filed 2/7/03, effective 3/10/03; 99-01-021, § 136-163-030, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.79.060. 96-17-014, § 136-163-030, filed 8/12/96, effective 9/12/96.]

Title 137 WAC

CORRECTIONS, DEPARTMENT OF

Chapters

137-10	**Petition for promulgation, amendment, or repeal of rule or for declaratory ruling.**
137-12A	**One-time impact funds available to qualifying political subdivisions.**
137-58	**Guideline for implementing the State Environmental Policy Act.**
137-67	**Transfer of citizens of foreign countries.**
137-68	**Adult probation and parole—Interstate compact.**
137-70	**Reimbursement for criminal justice costs and contingency plan expenses.**
137-75	**Jail and medical cost reimbursement to cities and counties.**
137-78	**Employee assault benefits.**
137-80	**Institutional industries.**
137-91	**Adult correctional institutions—Medical care—Health care.**
137-96	**Prerelease programs.**
137-104	**Community custody violation hearings.**

Chapter 137-10 WAC

PETITION FOR PROMULGATION, AMENDMENT, OR REPEAL OF RULE OR FOR DECLARATORY RULING

WAC

137-10-015 Qualifications and filing.

WAC 137-10-015 Qualifications and filing. (1) Any interested person may petition the department for the promulgation of a new department rule, the amendment or repeal of an existing department rule, or for a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforced by the department.

(2) All such petitions shall be delivered or mailed to the Office of the Secretary, Department of Corrections, P.O. Box 41101, Olympia, Washington 98504-1101.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-10-015, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 34.04.060 and 34.04.080. 86-02-051 (Order 85-11), § 137-10-015, filed 12/31/85.]

Chapter 137-12A WAC

ONE-TIME IMPACT FUNDS AVAILABLE TO QUALIFYING POLITICAL SUBDIVISIONS

WAC

137-12A-050 Application procedure.
137-12A-060 Department review committee.
137-12A-070 Contracts.

WAC 137-12A-050 Application procedure. (1) A political subdivision must request funding under this chapter by submitting a written request to:

Department of Corrections
Contracts and Legal Affairs
P.O. Box 41114
Olympia, WA 98504-1114

(2) Requests must document the one-time cost impact for which reimbursement is requested. Such documentation may include reference to:

(a) Criminal justice costs.

(b) Social service or human service costs.

(c) Transportation, roads and utility costs.

(d) Other similar costs.

(3) Requests for reimbursement of costs related to inmate families shall be documented by the political subdivision and take into account offsetting revenues from federal, state, or charitable sources. Such documentation shall include, but not be limited to:

(a) Social service or human service costs within the community related to inmate families.

(b) Criminal justice costs.

(c) The relationship of those costs to the offender population.

(d) An affidavit that such costs are not funded or offset from other sources or subject to reimbursement by the recipient of such services.

(4) The burden of demonstrating the impact shall be on the requesting political subdivision. The department may provide technical assistance to the political subdivision and verification of impact requests.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-12A-050, filed 10/17/03, effective 11/17/03; 91-10-018, § 137-12A-050, filed 4/23/91, effective 5/24/91. Statutory Authority: RCW 72.01.090 and 1984 c 246 § 2. 84-14-077 (Order 84-10), § 137-12A-050, filed 7/2/84. Statutory Authority: RCW 72.02.040 and 72.72.040. 84-06-009 (Order 84-03), § 137-12A-050, filed 2/27/84.]

WAC 137-12A-060 Department review committee. (1) All requests shall be reviewed by a department committee composed of the following individuals or their designees:

(a) Deputy secretary, office of administrative services;

(b) Deputy secretary, office of correctional operations;

(c) Contracts and regulations administrator;

(d) Administrator, capital planning and development; and the

(e) Senior assistant attorney general assigned to the department.

(2) The review committee shall approve or disapprove the requests. If a request is disapproved in total or in part, the committee shall send a letter to the requesting political subdivision with the reasons for disapproval.

(3) The committee decision shall be final unless appealed to the secretary within twenty days after a political subdivision receives notice of disapproval.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-12A-060, filed 10/17/03, effective 11/17/03; 91-10-018, § 137-12A-060, filed 4/23/91, effective 5/24/91; 87-06-045 (Order 87-01), § 137-12A-060, filed 3/4/87. Statutory Authority: RCW 72.02.040 and 72.72.040. 84-06-009 (Order 84-03), § 137-12A-060, filed 2/27/84.]

WAC 137-12A-070 Contracts. Requests approved for funding under this chapter shall be evidenced in a written contract document processed through the contracts and legal affairs section and approved by the secretary and submitting jurisdiction. Funding shall be limited to actual costs incurred during the term of the contract.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-12A-070, filed 10/17/03, effective 11/17/03; 91-10-018, § 137-12A-070, filed 4/23/91, effective 5/24/91. Statutory Authority: RCW 72.02.040 and 72.72.040. 84-06-009 (Order 84-03), § 137-12A-070, filed 2/27/84.]

Chapter 137-58 WAC

GUIDELINE FOR IMPLEMENTING THE STATE ENVIRONMENTAL POLICY ACT

WAC

137-58-010 Purpose.
137-58-020 Definitions.
137-58-030 Agency responsibilities.
137-58-040 Responsibilities, capital planning and development.

WAC 137-58-010 Purpose. (1) The purpose of this chapter is to ensure department compliance with the State Environmental Policy Act, (SEPA), chapter 43.21C RCW, and the regulations promulgated thereto, chapter 197-11 WAC and to set forth department procedures in regards to SEPA requirements.

(2) These rules are supplemental to chapter 43.21C RCW and chapter 197-11 WAC and are not intended to provide a comprehensive description of the SEPA requirements therein listed.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-58-010, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.66.080. 82-07-067 (Order 82-005), § 137-58-010, filed 3/22/82.]

WAC 137-58-020 Definitions. The definitions set forth in chapter 197-11 WAC are hereby incorporated by reference into this chapter and should be referred to if necessary.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-58-020, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.66.080. 82-07-067 (Order 82-005), § 137-58-020, filed 3/22/82.]

WAC 137-58-030 Agency responsibilities. (1) The secretary or his/her designee shall be responsible for making final decisions regarding threshold determinations, adequacy of draft EISs and adequacy of final EISs where the department is the lead agency.

(2) The department's capital planning and development section shall be responsible for submitting the necessary data set forth in WAC 137-58-040 to the secretary for his/her decision.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-58-030, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.66.080. 82-07-067 (Order 82-005), § 137-58-030, filed 3/22/82.]

WAC 137-58-040 Responsibilities, capital planning and development. The department's capital planning and development section shall be responsible for complying with the threshold determination procedures of WAC 197-11-300 through 197-11-390; and shall be responsible for the supervision, or actual preparation of draft EISs pursuant to WAC 197-11-400 through 197-11-495, including the circulation of such statements, and the conduct of any public hearing required by chapter 197-11 WAC. The office of capital programs shall also prepare or supervise the preparation of any required final EIS pursuant to WAC 197-11-550 through 197-11-695.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-58-040, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.66.080. 82-07-067 (Order 82-005), § 137-58-040, filed 3/22/82.]

Chapter 137-67 WAC

TRANSFER OF CITIZENS OF FOREIGN COUNTRIES

WAC

137-67-015 Definitions.
137-67-025 Initial notification.
137-67-030 Process for application.
137-67-035 Referral by the secretary to the Office of Enforcement Operations, International Prisoner Transfer Program, Criminal Division, U.S. Department of Justice.
137-67-040 Verification hearing.

WAC 137-67-015 Definitions. (1) "Department" is the department of corrections.

(2) "Adult correctional institution" and "institution" is a facility identified in RCW 72.01.050(2) and any similar facility hereafter established.

(3) "Secretary" is the secretary of the department of corrections or the secretary's designee.

(4) "Deputy secretary" is the deputy secretary, office of correctional operations, of the Washington state department of corrections or his/her designee.

(5) "Superintendent" is a superintendent of an adult correctional institution or the superintendent's designee.

(6) "Treaty nation" is a country which has entered into a treaty with the United States on the execution of penal sentences.

(7) "Treaty" is a treaty under which an offender, sentenced in the courts of one country, may be transferred to the country of which the offender is a citizen or national, for the purpose of serving the sentence.

(8) "Country of origin or citizenship" is the country in which the inmate was born or in which the inmate has duly recognized citizenship.

(9) "OIA" is the Office of International Affairs, Criminal Division, United States Department of Justice.

(10) "United States" is the United States of America.

(11) "Detainer" is a hold or request for notification placed by any local, state, or federal law enforcement, penal, or prosecutional agency based on untried charges, parole or probation violation, escape, unexpired sentence, bond-jumping, or any other fugitive matter.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-67-015, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-015, filed 9/3/85.]

WAC 137-67-025 Initial notification. At the time of admission to the Washington corrections center, or the Washington corrections center for women, the orientation information given to all inmates will include information on international offender transfers. An inmate who is a citizen of a treaty nation will be informed of the existing treaty and be provided with the opportunity to indicate an interest or noninterest in a transfer to the inmate's country of origin or citizenship on an application form provided by the department. Whenever possible, the form will be bilingual or translated into the inmate's native language. The application will be processed consistent with the purpose and provisions of the applicable treaty.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-67-025, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-025, filed 9/3/85.]

WAC 137-67-030 Process for application. After the inmate's foreign country citizenship has been verified and that country has been identified as a treaty nation, the superintendent will forward the inmate's application for transfer and the verification of citizenship to the deputy secretary. All applications for international transfer will be submitted by the deputy secretary to the secretary for final department approval and recommended to the governor or the governor's designee pursuant to RCW 43.06.350.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-67-030, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-030, filed 9/3/85.]

WAC 137-67-035 Referral by the secretary to the Office of Enforcement Operations, International Prisoner Transfer Program, Criminal Division, U.S. Department of Justice. After approval of an inmate's application for transfer by the governor or the governor's designee, the secretary will refer the inmate's application to the International Prisoner Transfer Program (IPTP).

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-67-035, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-035, filed 9/3/85.]

WAC 137-67-040 Verification hearing. Following IPTP approval and approval of the treaty country, the inmate will be referred by IPTP to a United States magistrate or a United States district court judge, or other appointed United States official to assure and document the inmate's voluntary request for transfer. Federal authorities will complete the necessary procedures to effect voluntary transfer under the applicable treaty and laws of the United States.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-67-040, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-040, filed 9/3/85.]

Chapter 137-68 WAC

ADULT PROBATION AND PAROLE—INTERSTATE COMPACT

WAC

137-68-010 Definitions.
137-68-020 Detained or arrested probationer or parolee—Right to preliminary hearing.

WAC 137-68-010 Definitions. (1) "Compact" is the interstate compact for supervision of probationers and parolees as codified in RCW 9.95.270.

(2) "Compact administrator" is the deputy secretary, office of correctional operations, department of corrections, who is responsible for the administration of the interstate compact for the supervision of adult probationers and parolees.

(3) "Deputy compact administrator" is a person appointed by the compact administrator and delegated responsibility for the administration of the interstate compact.

(4) "Sending state" is the state in which the individual was granted probation or parole and in which the jurisdiction of the case is retained.

(5) "Receiving state" is the state providing supervision of the parolee or probationer under the interstate compact.

(6) "Probationer" is a person under jurisdiction of a state superior or circuit court who is being supervised under the compact.

(7) "Parolee" is a person under jurisdiction of a paroling authority who is being supervised under the interstate compact.

(8) "Parole officer" is a state community corrections officer (CCO) employed by the department of corrections.

(9) "Supervising community corrections officer" is a CCO assigned to supervise a probationer or parolee as required by the interstate compact and to act in regard to all matters connected with hearings conducted pursuant to the interstate compact rules.

(10) "Violations specified" are charges and/or allegations made against probationer or parolee by a parole officer in regard to violation of law or failure to comply with the general conditions of probation or parole or special instructions and conditions as set forth by the court of jurisdiction or the paroling authority.

(11) "Preliminary hearing" is a hearing conducted in accordance with RCW 10.88.290.

(12) "Hearing officer" is a person authorized by the compact administrator to hear cases involving alleged violations of conditions of parole or probation. Neither the person mak-

ing the allegations of violation or his or her direct supervisor shall act as hearing officer.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-68-010, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 9.95.270. 83-01-139 (Order 82-20), § 137-68-010, filed 12/22/82. Formerly WAC 275-102-475.]

WAC 137-68-020 Detained or arrested probationer or parolee—Right to preliminary hearing. (1) A probationer or parolee being supervised for another state under the interstate compact if detained or arrested within the state of Washington shall have the right as provided in RCW 10.88.290, to a preliminary hearing to determine whether there is probable cause to believe a condition or conditions of probation or parole have been violated and whether there is reason to believe the violations alleged are of such nature that a revocation of probation or parole should be considered by the sending state.

(2) The detained or arrested probationer or parolee may waive his or her right to such hearing in writing.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-68-020, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 9.95.270. 83-01-139 (Order 82-20), § 137-68-020, filed 12/22/82. Formerly WAC 275-102-480.]

Chapter 137-70 WAC

REIMBURSEMENT FOR CRIMINAL JUSTICE COSTS AND CONTINGENCY PLAN EXPENSES

WAC

137-70-020 Definitions.
137-70-060 Billing procedure.
137-70-070 Department review.

WAC 137-70-020 Definitions. As used in this chapter, the following words shall have the following meanings:

(1) "Secretary" shall mean the secretary of the department of corrections or the secretary's designee.

(2) "Deputy secretary" shall mean the deputy secretary of the department, or the deputy secretary's designee.

(3) "Contingency plan" shall mean a plan developed under RCW 72.02.150 by the secretary with representatives of political subdivisions for dealing with disturbances at a state penal facility.

(4) "Department" shall mean the department of corrections.

(5) "Inmate" shall mean an individual sentenced to the custody of the department under state law and an individual transferred to the custody of the department from another state or the federal government.

(6) "Institution" and "penal facility" shall mean any facility identified in RCW 72.01.050(2) and any community residential program under the department's jurisdiction operated pursuant to chapter 72.65 RCW.

(7) "Political subdivision" shall mean any city, town, or county.

(8) "Administrator" shall mean the administrator of the department's contracts and legal affairs section, or the administrator's designee.

(9) All references to the singular shall include the plural unless noted otherwise.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-70-020, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.72.040. 87-03-029 (Order 86-07), § 137-70-020, filed 1/14/87; 84-11-033 (Order 84-06), § 137-70-020, filed 5/14/84. Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-020, filed 8/16/82.]

WAC 137-70-060 Billing procedure. (1) All requests for reimbursement under this chapter must be submitted on a standard Washington State Invoice Voucher Form, A-19, in triplicate, showing the total reimbursement requested, accompanied by a completed request for reimbursement form issued by the department. The vouchers and form should be mailed or delivered to the Department of Corrections, Office of Administrative Services, Contracts and Legal Affairs, P.O. Box 41114, Olympia, Washington 98504-1114.

(2) The department may require the requesting political subdivision to submit such other documentation and information the department deems necessary to further support or explain the request.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-70-060, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.72.040. 85-07-017 (Order 85-04), § 137-70-060, filed 3/11/85; 84-11-033 (Order 84-06), § 137-70-060, filed 5/14/84; 82-17-044 (Order 82-10), § 137-70-060, filed 8/16/82.]

WAC 137-70-070 Department review. (1) All requests for reimbursement shall be reviewed by the administrator.

(2) The administrator shall approve or disapprove the requests for payment. If a request is disapproved in total or in part, the administrator shall notify the requesting political subdivision in writing, setting forth the reasons for disapproval.

(3) The administrator's decision shall be final unless appealed to the department's impact appeals panel within twenty days after a political subdivision receives notice of disapproval. The impact appeals panel shall be composed of the deputy secretary, office of correctional operations and the deputy secretary, office of administrative services, or his/her designee.

(4) An appeal from the administrator's decision disapproving a political subdivision's request for reimbursement must be in writing and must set forth the reasons why the political subdivision believes its request should be approved. The appeal shall be addressed to the Impact Appeals Panel, Department of Corrections, P.O. Box 41114, Olympia, WA 98504-1114, attention: Contracts and Legal Affairs.

(5) The decision of the impact appeals panel shall be deemed to be the department's final administrative action with respect to the appeal.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-70-070, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.72.040. 87-03-029 (Order 86-07), § 137-70-070, filed 1/14/87; 85-07-017 (Order 85-04), § 137-70-070, filed 3/11/85; 84-11-033 (Order 84-06), § 137-70-070, filed 5/14/84; 82-17-044 (Order 82-10), § 137-70-070, filed 8/16/82.]

Chapter 137-75 WAC

JAIL AND MEDICAL COST REIMBURSEMENT TO CITIES AND COUNTIES

WAC

137-75-020 Definitions.
137-75-040 Extraordinary emergency medical treatment.
137-75-050 Request for reimbursement.

WAC 137-75-020 Definitions. As used in this chapter, the following words shall have the following meanings:

(1) "Secretary" shall mean the secretary of the department of corrections or the secretary's designee;

(2) "Department" shall mean the department of corrections;

(3) "Deputy secretary" shall mean the deputy secretary, office of correctional operations or his/her designee.

(4) "Institution" shall mean a facility designated in RCW 72.01.050(2), any similar facility hereafter established, and a work release facility;

(5) "Work release facility" shall mean a community residence operated pursuant to chapter 72.65 RCW;

(6) "Jail" shall mean a city or county holding facility as defined in RCW 70.48.020(1);

(7) "Parole hold" shall mean a detention of a person pursuant to an order of parole suspension or revocation issued in accordance with RCW 9.95.120;

(8) All references to the singular shall include the plural, unless otherwise noted.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-75-020, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.01.090 and 1984 c 235. 84-15-053 (Order 84-09), § 137-75-020, filed 7/17/84, effective 9/2/84.]

WAC 137-75-040 Extraordinary emergency medical treatment. (1) The department shall reimburse a city or county the actual cost of extraordinary emergency medical treatment provided to a person for whom the department is financially responsible.

(2) If a person for whom the department is financially responsible requires extraordinary and emergency medical treatment, the department is to be notified by a competent medical authority of the nature and course of such treatment as far in advance as practical. The department will then authorize such treatment or advise of alternative means by which such treatment may be provided. If it is not practical to give such notice prior to such treatment, notice will be given to the department as soon as practical after such treatment has been given.

(3) The notice required shall be given to the deputy secretary.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-75-040, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.01.090 and 1984 c 235. 84-15-053 (Order 84-09), § 137-75-040, filed 7/17/84, effective 9/2/84.]

WAC 137-75-050 Request for reimbursement. (1) A city or county requesting reimbursement under this chapter shall complete a form supplied by the department and file it with the Administrator, Contracts and Legal Affairs, P.O. Box 41114, Olympia, WA 98504-1114, who will confirm the accuracy of the information submitted with the request and determine whether the amount requested is properly reimbursable under chapter 70.48 RCW and this chapter.

(2) All such requests must be filed within thirty days after the costs for which reimbursement is requested were incurred. Provided, however, with respect to such costs incurred in the month of June in odd-numbered years, such requests must be filed no later than ten days after the close of the state fiscal biennium (June 30).

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-75-050, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 70.48.450. 87-14-045 (Order 87-03), § 137-75-050, filed 6/30/87. Statutory Authority: RCW 72.01.090 and 1984 c 235. 84-15-053 (Order 84-09), § 137-75-050, filed 7/17/84, effective 9/2/84.]

Chapter 137-78 WAC
EMPLOYEE ASSAULT BENEFITS

WAC

137-78-010 Definitions.
137-78-030 Application process.
137-78-060 Denial of application for assault benefits.
137-78-070 Appeal from denial of assault benefits/overpayments.

WAC 137-78-010 Definitions. For the purposes of this chapter the following words shall have the following meanings:

(1) "Assault" means an intentional touching, striking, cutting, or shooting of a person or the body of another.

(2) "Assault benefits" means reimbursement to employees of some of their costs attributable to being the victim of an offender assault.

(3) "Administrator, safety and risk management" means the individual who is appointed by the secretary to head the safety and risk management section or his/her designee.

(4) "Department" means the department of corrections.

(5) "Employee" means any individual who is appointed by the secretary, and who serves under the supervision and authority of the department. The term "employee" shall not include an individual performing personal services under contract or offenders.

(6) "Deputy secretary" is the deputy secretary for the office of correctional operations or his/her designee.

(7) "Doctor" means a person licensed to practice one or more of the following professions: Medicine and surgery; osteopathic; chiropractic; drugless therapeutics; podiatry; dentistry; optometry.

(8) "Offender" means any person in the custody of or subject to the jurisdiction of the department of corrections.

(9) "Secretary" means the secretary of the department of corrections or the secretary's designee.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-78-010, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.13.170. 89-15-059 (Order 89-05), § 137-78-010, filed 7/19/89, effective 8/19/89.]

WAC 137-78-030 Application process. Employees who meet the requirements of WAC 137-78-020 and elect to apply for assault benefits shall submit a signed application for assault benefits and a properly completed report of personal injury form (DOC 3-133), together with the certificate of the doctor that attended him or her, to his or her locally designated representative or human resource office within ten working days of the occurrence of the assault or, if the application could not be reasonably submitted within that period, within ten working days of the time when application could reasonably have been made. Applications shall be reviewed through the employee's chain of command. The deputy secretary shall forward the application, with appropriate recommendations, to the safety and risk management section. The administrator, safety and risk management shall grant or deny the request for assault benefits within ten working days after written notification from the employee or the department of

labor and industries that the employee's application for compensation under Title 51 RCW has been approved, but may extend that time to gather additional information.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-78-030, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.13.170. 89-15-059 (Order 89-05), § 137-78-030, filed 7/19/89, effective 8/19/89.]

WAC 137-78-060 Denial of application for assault benefits. If the employee's request for assault benefits is denied by the safety and risk management administrator, the employee may, within ten working days from the date of denial, file a petition with the office of administrative services (OAS) deputy secretary for reconsideration, stating the specific grounds upon which the application should be granted. The OAS deputy secretary shall respond within twenty working days from the date the petition was received; provided that the time may be extended to gather additional information.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-78-060, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.13.170. 89-15-059 (Order 89-05), § 137-78-060, filed 7/19/89, effective 8/19/89.]

WAC 137-78-070 Appeal from denial of assault benefits/overpayments. (1) If the employee's petition for assault benefits to the office of administrative services deputy secretary is denied, the employee may appeal that decision to the secretary in accordance with chapter 34.05 RCW and this section. The employee shall file a written petition with the Office of the Secretary at 410 W. 5th, P.O. Box 41101, Olympia, Washington 98504-1101, within thirty days after the denial of assault benefits.

(2) If a dispute exists between the employee and department concerning the amount of any overpayment to be repaid the department, the employee may request a hearing in accordance with chapter 34.05 RCW and this section. The employee shall file a written petition with the Office of the Secretary at 410 W. 5th, P.O. Box 41101, Olympia, Washington 98504-1101, within thirty days after the dispute arises.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-78-070, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.13.170. 89-15-059 (Order 89-05), § 137-78-070, filed 7/19/89, effective 8/19/89.]

Chapter 137-80 WAC
INSTITUTIONAL INDUSTRIES

WAC

137-80-010 Purpose.
137-80-020 Definitions.
137-80-040 Sale of goods.
137-80-060 Inmate job opportunities.

WAC 137-80-010 Purpose. These rules and regulations are adopted pursuant to and in accordance with chapter 34.05 RCW. The purpose is to provide standards and procedures for the operation of the division of institutional industries.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-80-010, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-010, filed 8/27/82.]

WAC 137-80-020 Definitions. (1) "Secretary" means the secretary of the department of corrections or his/her designee.

(2) "Program administrator" means the administrator of the institutional industries program appointed by the secretary.

(3) "Institutional industries board of directors" means the board established by the authority of the Corrections Reform Act of 1981, RCW 72.09.070.

(4) "Free venture industries" means any industry producing goods or services for sale to both the public and private sector which is operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. Inmates shall be paid a wage by the organization of not less than sixty percent of the approximate prevailing wage within the state for the occupation, as determined by the director, or minimum wage, whichever is greater.

(5) "Tax reduction industries" means any state-owned and operated enterprises designed to reduce the cost for services and goods for tax supported agencies and for nonprofit organizations which assist persons who are poor or infirm. Products of these enterprises may be sold to public agencies and to nonprofit organizations which assist persons who are poor or infirm. Inmates shall be paid for their work on a gratuity scale, approved by the director, which shall not exceed the federal minimum wage.

(6) "Institutional support industries" means any industry operated by the department of corrections designed and managed to provide basic work training and experience to the inmate. All able and eligible inmates who are assigned work and who are not working in other classes of industries are included in this class. Inmates shall be paid for their work in accordance with an inmate gratuity scale adopted by the secretary.

(7) "Community work industries" means any industry operated by the department of corrections designed and managed to provide services in the inmate's resident community at a reduced cost. Services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations which assist the poor or infirm. Inmates shall receive a gratuity from a unit of local government which shall not exceed the minimum wage.

(8) "Community restitution programs" means any program operated by the state, local unit of government, or a nonprofit agency which assists persons who are poor or infirm which is subject to supervision by the department of corrections which enables an offender, placed on probation, to work off all or part of a community service order as ordered by the sentencing court.

(9) "Department" means the department of corrections.

(10) "Institutional industries" means the program within the department of corrections office of correctional operations charged with developing and managing comprehensive work programs to provide work skills, work experience and exposure to the work ethic for offenders under the jurisdiction of the department.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-80-020, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-020, filed 8/27/82.]

WAC 137-80-040 Sale of goods. (1) The program administrator or his/her designee may sell all articles, materials, and supplies authorized by statute to be produced or man-

ufactured in correctional institutions to any state agency, political subdivision of the state or as otherwise authorized by statute.

(2) The secretary shall require those institutions under his direction to give preference to those articles, materials, and supplies produced or manufactured by institutional industries when purchases are made for institution needs.

(3) The program administrator may cause to be prepared annually, at such times he may determine, lists containing the descriptions of all articles and supplies manufactured and produced in state correctional institutions; copies of such list shall be sent to the supervisor of purchasing and to all departments, institutions and agencies of the state of Washington.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-80-040, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-040, filed 8/27/82.]

WAC 137-80-060 Inmate job opportunities. The program administrator shall cause to be periodically prepared and distributed to a central location in each institution a list of prison industries' job opportunities. This list shall include, but not limited to, job descriptions and the educational and skill requirements of each job and shall be made available to personnel of the institution, institutional industries and to the inmates.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-80-060, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-060, filed 8/27/82.]

Chapter 137-91 WAC
ADULT CORRECTIONAL INSTITUTIONS—MEDICAL CARE—HEALTH CARE

Reviser's note: The following chapter has not been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was filed in the code reviser's office and was published in the Washington State Register. It is published in the Washington Administrative Code exactly as filed by the agency with history notes added by code reviser's office.

WAC

137-91-100 Health record.

WAC 137-91-100 Health record. The health record shall be maintained at the facility where an offender is housed. Health records of offenders housed at work release facilities shall be maintained at a location(s) designated by the regional administrator for the region in which the facility is located. Upon transfer of the offender between state facilities, that offender's record shall be transferred along with the offender. The health record shall be archived ninety days following the offender's release from the department's jurisdiction. The health record shall include:

(1) Detailed reports of admission, medical, dental and mental health evaluations and recommendations;

(2) All primary encounter and progress notes regarding continuing health status including illnesses, hospitalization, surgery, results of consultations and examinations, reports of tests done, immunizations, and problem lists;

(3) Reports completed by outside consultants.

Information contained in the offender health record is **confidential.** Access to and release of information contained in the offender health record shall be in strict compliance with chapter 70.02 RCW.

[03-16-072, § 137-91-100, filed 8/4/03, effective 9/4/03. 97-22-057, § 137-91-100, filed 11/3/97, effective 10/22/97.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

Chapter 137-96 WAC
PRERELEASE PROGRAMS

Reviser's note: The following chapter has not been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was filed in the code reviser's office and was published in the Washington State Register. It is published in the Washington Administrative Code exactly as filed by the agency with history notes added by code reviser's office.

WAC

137-96-020 Definitions.
137-96-110 Earned time, granting, and denial.
137-96-130 Infractions—On-site adjustment.
137-96-140 Repealed.
137-96-150 Repealed.
137-96-160 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

137-96-140 Purpose. [95-22-059, § 137-96-140, filed 10/30/95, effective 12/1/95.] Repealed by 03-16-072, filed 8/4/03, effective 9/4/03.

137-96-150 Authority. [95-22-059, § 137-96-150, filed 10/30/95, effective 12/1/95.] Repealed by 03-16-072, filed 8/4/03, effective 9/4/03.

137-96-160 Definitions. [95-22-059, § 137-96-160, filed 10/30/95, effective 12/1/95.] Repealed by 03-16-072, filed 8/4/03, effective 9/4/03.

WAC 137-96-020 Definitions. (1) "Secretary" is the secretary of the department of corrections.

(2) "Deputy secretary" is the deputy secretary, office of correctional operations, department of corrections.

(3) "Assistant deputy secretary" is the assistant deputy secretary, office of correctional operations.

(4) "Superintendent" is the individual responsible for the planning, organizing, and implementation of programs at a prerelease facility.

(5) "Contract staff" is the staff member(s) of an agency under contract to the department of corrections to provide programming for offenders at prerelease.

(6) "Prerelease offender" is an offender who has been approved and placed in prerelease.

(7) "Volunteer escort" is a responsible citizen who has been screened, trained, and assigned to escort and supervise offenders during official and approved activities outside of the facility or to participate in approved activities inside the facility.

(8) "Prerelease" is a total confinement facility approved for housing and supervision of offenders under the jurisdiction of the department of corrections. The program provides the transitional services necessary to assist offenders in their successful return into the community.

[03-16-072, § 137-96-020, filed 8/4/03, effective 9/4/03. 95-22-059, § 137-96-020, filed 10/30/95, effective 12/1/95.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-96-110 Earned time, granting, and denial. An offender may receive earned time sentence reduction for participating or attempting to participate in facility work, education, or training programs in accordance with department policy. Prior to a denial of earned time, the basis for the proposed denial shall be explained to the offender. Should the offender wish to contest the proposed denial, he/she may request a hearing, which shall be held at least twenty-four hours after the offender has received written notice scheduling the hearing and indicating the basis for the proposed denial. The hearing shall be before an impartial official designated by the superintendent, pursuant to WAC 137-56-175. The offender shall be provided a written statement from the hearing official showing the evidence relied on and the reasons for the decision. The hearing shall be conducted in accordance with WAC 137-56-180. Such a hearing and its result shall not be considered disciplinary in nature and the decision of the hearing shall be limited to recommending to the superintendent that earned time credits be granted or denied in whole or in part. Granting or denial of earned time credits for out-of-state offenders shall be handled in substantial accord with this rule.

[03-16-072, § 137-96-110, filed 8/4/03, effective 9/4/03. 95-22-059, § 137-96-110, filed 10/30/95, effective 12/1/95.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-96-130 Infractions—On-site adjustment. (1) In the event of a general infraction, a staff member may make an on-site adjustment which may consist of:

(a) Counseling, warning, or reprimanding the offender; and/or

(b) Causing the offender to remove himself/herself from the situation immediately involved in the violation.

(2) An on-site adjustment under this rule cannot be considered a general infraction for the purposes of determining whether an 877 serious infraction under WAC 137-56-110 has occurred.

[03-16-072, § 137-96-130, filed 8/4/03, effective 9/4/03. 95-22-059, § 137-96-130, filed 10/30/95, effective 12/1/95.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-96-140 Repealed. See Disposition Table at beginning of this chapter.

WAC 137-96-150 Repealed. See Disposition Table at beginning of this chapter.

WAC 137-96-160 Repealed. See Disposition Table at beginning of this chapter.

Chapter 137-104 WAC
COMMUNITY CUSTODY VIOLATION HEARINGS

Reviser's note: The following chapter has not been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was filed in the code reviser's office and was published in the Washington State Register. It is published in the Washington Administrative Code exactly as filed by the agency with history notes added by code reviser's office.

WAC

137-104-020 Definitions.

WAC 137-104-020 Definitions. For purposes of this chapter, the following words have the following meanings:

(1) "Appeals panel" means three reviewing officers designated by the secretary with the authority to review hearing officers' decisions, and to affirm, reverse, or modify decisions and sanctions in accordance with RCW 9.94A.737.

(2) "Community corrections officer" means an employee of the department responsible for carrying out specific duties concerning the supervision of sentenced offenders and monitoring of sentence conditions.

(3) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time served in the community subject to controls placed on the offender's movement and activities by the department. Offenders supervised on community custody include those subject to community placement (as defined in RCW 9.94A.030), drug offender sentencing alternative (as described in RCW 9.94A.505), community custody for a sex offense (as described in RCW 9.94A.505), community custody max, first-time offender waiver (as described in RCW 9.94A.505), or a work ethic camp program (as defined in RCW 9.94A.030), and those sentenced to community custody by the court for crimes committed on or after July 1, 2000, whose sentence is less than one year of confinement. For purposes of this subsection, "community custody max" means a term of community custody for certain sex offenders who have completed their maximum sentences of confinement.

(4) "Department" means the Washington state department of corrections.

(5) "Deputy secretary" means the deputy secretary of the office of correctional operations of the department, or the deputy secretary's designee.

(6) "Graduated sanction system" means structured incremental responses designed to reduce risk to the public, effectively intervene in noncompliant behavior, where possible, repair harm to the community, and make efficient use of limited state resources. Sanctions may include, but are not limited to, partial or total confinement; home detention with electronic monitoring; work crew; community service; inpatient treatment; daily reporting; curfew; educational or counseling sessions; supervisions enhanced through electronic monitoring; or any other sanctions available in the community.

(7) "Hearing officer" means an employee of the department authorized to conduct department hearings.

(8) "Hearings program manager" means the manager of the hearings unit of the department, or the hearings program manager's designee.

(9) "Offender" means any person in the custody of or subject to the jurisdiction of the department.

(10) "Partial confinement" means confinement in a facility or institution operated or utilized under contract by the state or by any other unit of government, to include, but not be limited to, work release, treatment center, residential facility, or home detention with electronic monitoring.

(11) "Probable cause" means a determination, made by a hearing officer, that there is cause to believe a violation has occurred.

(12) "Secretary" means the secretary of the department, or the secretary's designee.

(13) "Stipulated agreement" means an agreement between the offender and the department in which the offender admits violations and agrees to comply with intermediate sanctions. For the purposes of this subsection, "intermediate sanction" means department-imposed sanctions that are served in the community rather than total confinement.

(14) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, to include, but not be limited to, adult correctional facilities, camp and prerelease facilities or a county or municipal jail.

(15) "Working day" means Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

[03-16-072, § 137-104-020, filed 8/4/03, effective 9/4/03. 01-04-044, § 137-104-020, filed 2/1/01, effective 3/1/01.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

Title 139 WAC

CRIMINAL JUSTICE TRAINING COMMISSION

Chapters

139-05 Law enforcement.
139-10 Corrections.
139-30 Firearms certification—Security guards.
139-35 Firearms certification—Private detectives.

Chapter 139-05 WAC
LAW ENFORCEMENT

WAC

139-05-200 Requirement of basic law enforcement training.
139-05-210 Basic law enforcement equivalency certification.
139-05-820 Basic reserve equivalency certification.
139-05-915 Requirements of training for law enforcement and corrections dog handlers and certification of canine teams.
139-05-925 Requirement of training for railroad police officers.

WAC 139-05-200 Requirement of basic law enforcement training. (1) All commissioned law enforcement officers of a city, county, or political subdivision of the state of Washington, except volunteers and reserve officers whether paid or unpaid and officers of the Washington state patrol, unless otherwise exempted by the Washington state criminal justice training commission, shall as a condition of continued employment successfully complete a basic law enforcement academy sponsored or conducted by the commission, or obtain a certificate of equivalent basic training from the commission. This requirement of basic law enforcement training shall be met within the initial six-month period of law enforcement employment, unless otherwise extended by the commission.

(2) Law enforcement personnel exempted from the requirement of subsection (1) of this section shall include:

(a) Individuals holding the office of sheriff of any county on September 1, 1979;

(b) Auxiliary and reserve personnel; and

(c) Commissioned personnel.

(i) Who have been granted an administrative exemption by the commission, provided that the initial grant and continuing effect of such exemption shall be governed by the following:

(A) No police chief or sheriff of any agency with ten or fewer commissioned officers shall be eligible to receive such exemption;

(B) Any request for such exemption shall be submitted to the commission on an approved form with a criminal records check completed by the Washington state patrol and, in any instance wherein the requestor is a police chief, such request shall be cosigned by requestor's appointing authority;

(C) Any individual receiving such exemption may not engage in patrol or other general enforcement activity on a usual or regular basis but shall limit such involvement to that required for supervision, agency management, or manpower replacement on an emergency or exigent basis;

(D) Any approved administrative exemption shall remain in effect for the duration of the exemptee's term of service within the position upon which such exemption is based or until the nature of exemptee's primary duties and responsibilities change from administrative to general enforcement; and

(E) Any approved administrative exemption may be revoked by the commission at any time upon its finding that the conditions of such exemption are not being met or the basis for such exemption no longer exists;

(ii) Whose initial date of full-time, regular and commissioned law enforcement employment within the state of Washington precedes January 1, 1978; or

(iii) Who have been awarded a certificate of completion of the basic law enforcement academy or the basic law enforcement equivalency in accordance with the requirement of subsection (1) of this section, and thereafter have engaged in regular and commissioned law enforcement employment without break or interruption in excess of twenty-four months duration.

(3) Each law enforcement agency of the state of Washington, or any political subdivision thereof, except the Washington state patrol, shall immediately notify the commission by approved form of each instance wherein a commissioned officer begins continuing and regular employment with that agency. Such notification shall be maintained by the commission and shall be utilized by the commission for the subsequent scheduling, notification and enrollment required for compliance with the basic law enforcement training requirement.

(4) Failure to comply with the above requirement of basic law enforcement training shall result in notification of noncompliance, by the commission, on approved form, to:

(a) The individual in noncompliance;

(b) The head of his/her agency;

(c) The civil service commission having jurisdiction of such agency;

(d) The judges and clerks of the municipal, district, and superior courts in which said agency is located;

(e) The state auditor's office; and

(f) Any other agency or individual, as determined by the commission.

[Statutory Authority: RCW 43.101.080. 03-19-123, § 139-05-200, filed 9/17/03, effective 10/18/03; 00-17-017, § 139-05-200, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). 89-13-024 (Order 14D), § 139-05-200, filed 6/13/89; 87-19-104 (Order 14-D), § 139-05-200, filed 9/18/87; 86-19-021 (Order 1-B), § 139-05-200, filed 9/10/86.]

WAC 139-05-210 Basic law enforcement equivalency certification. (1) A certificate of equivalent basic law enforcement training shall be issued only to applicants who successfully complete the equivalency process as required by the Washington state criminal justice training commission. For this purpose, the term "process" shall include all documentation and prerequisites set forth in subsection (6) of this section, and successful completion of all knowledge and skills requirements within the basic equivalency academy. A certificate of equivalent basic law enforcement training shall be recognized in the same manner as the certificate of completion of the basic law enforcement academy.

(2) Eligibility for participation in the basic equivalency process shall be limited to regular, full-time, commissioned enforcement officers who otherwise are eligible to attend the basic law enforcement academy, and who have attained basic certification through completion of a basic training program in this or another state. For this purpose, the term "basic training program" shall not include any military or reserve training program, or any federal training program not otherwise approved by a majority of the commission membership.

(3) The participation of any eligible and approved applicant for a certificate of equivalent basic law enforcement training shall be effected within, and limited to, the first available session of the basic equivalency academy following such applicant's date of hire; provided that no applicant shall be required to attend a session of the basic equivalency academy which is conducted within the initial sixty days of the employment for which certification is requested.

It shall be the responsibility of the applicant's agency to ensure that all necessary forms and documentation are completed and submitted to the commission in a timely manner and as necessary to ensure that the participation provided by this section is effected.

The participation of any applicant in any session of the basic equivalency academy not otherwise provided herein shall require the approval of the commission.

(4) In those instances wherein an applicant has attended more than one basic training program, eligibility for participation in the basic equivalency process shall not be approved if such applicant, for whatever reason, failed to successfully complete the most recent of such programs attended.

(5) The decision to request an officer's participation within the equivalency process shall be discretionary with the head of the officer's employing agency, who shall advise the commission of that decision by appropriate notation upon the hiring notification submitted to the commission for such officer. Upon receipt of such notification, the commission shall provide to such agency head all necessary forms and information required for the processing of a request for a certificate of equivalent basic training.

(6) Upon approval of an applicant's eligibility to participate in the equivalency process, the applicant's employing agency shall submit to the commission the following documentation as a precondition of participation within such process:

(a) A copy of applicant's current and valid Washington state driver's license;

(b) A copy of applicant's current and valid basic first-aid card;

(c) A statement of applicant's health and physical condition by an examining physician;

(d) A record of applicant's firearms qualification;

(e) A liability release agreement by the applicant; and

(f) A criminal records check regarding such applicant.

(7) If such training has not been completed previously, the applicant shall be required to complete the commission's forty hour emergency vehicle operation course, as scheduled by the commission.

(8) Upon completion of the equivalency process and review and evaluation of applicant's performances therein, the commission shall:

(a) Issue a certificate of equivalent basic training;

(b) Issue a certificate of equivalent basic training upon applicant's successful completion of additional training as the training commission may require; or

(c) Require completion of the basic law enforcement academy.

(9) Any action or determination by the commission staff regarding a requestor or applicant for equivalency certification shall, upon written request of the involved individual or agency, be reviewed by the executive director of the training commission.

(10) Any waiver of, or variance in, any above requirement for equivalency participation and/or certification may be granted by the commission if it determines that sufficient justification exists for such action.

[Statutory Authority: RCW 43.101.080. 03-07-099, § 139-05-210, filed 3/19/03, effective 4/19/03; 00-17-017, § 139-05-210, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). 86-19-021 (Order 1-B), § 139-05-210, filed 9/10/86.]

WAC 139-05-820 Basic reserve equivalency certification. (1) a certificate of equivalency basic reserve training shall be issued only to applicants who successfully complete the equivalency process as required by the commission. For this purpose, the term "process" shall include all documentation and prerequisites set forth in subsection (6) of this section, and successful completion of all knowledge and skills requirements within the basic reserve equivalency academy. A certificate of equivalency basic reserve training shall be recognized in the same manner as the certificate of completion of the basic reserve academy.

(2) Eligibility for participation in the basic reserve equivalency process shall be limited to reserve commissioned law enforcement officers who have attained basic certification through completion of a basic training program in this or another state. For this purpose, the term "basic training program" shall not include any military or reserve training, or any federal training program not otherwise approved by a majority of the commission membership.

(3) The participation of any eligible and approved applicant for a certificate of equivalent basic reserve training shall be effected within, and limited to, the first available session of a basic reserve academy following such applicant's date of hire; provided that no applicant shall be required to attend a session of the basic reserve equivalency academy which is conducted within the initial sixty days of employment for which certification is requested.

It shall be the responsibility of the applicant's agency to ensure that all necessary forms and documentation are completed and submitted to the commission in a timely manner and as necessary to ensure that the participation provided by this section is effected.

The participation of any applicant in any session of the basic reserve equivalency not otherwise provided herein shall require the approval of the commission.

(4) In those instances wherein an applicant has attended more than one basic training program, eligibility for participation in the basic reserve equivalency process shall not be approved if such applicant, for whatever reason, failed to successfully complete the most recent of such programs attended.

(5) The decision to request an officer's participation within the equivalency process shall be discretionary with the head of the officer's employing agency, who shall advise the commission of that decision by appropriate notification upon the hiring of the officer. Upon receipt of such notification, the commission shall provide to such agency head all necessary forms and information required for the processing of a request for a certificate of equivalent basic reserve training.

(6) Upon approval of an applicant's eligibility to participate in the equivalency process, the applicant's employing agency shall submit to the commission all requested records, information and proof of background check as a precondition of participation with such process.

[Statutory Authority: RCW 43.101.080. 03-07-099, § 139-05-820, filed 3/19/03, effective 4/19/03; 02-02-004, § 139-05-820, filed 12/20/01, effective 1/20/02.]

WAC 139-05-915 Requirements of training for law enforcement and corrections dog handlers and certification of canine teams. (1) Title and scope: These rules are intended to set minimum standards of performance for the certification of canine teams that are used for law enforcement or corrections purposes. This process is not related to nor does it have any effect upon the requirements for peace officer certification. Nothing in these rules is intended to limit the use of canine teams employed by other state or federal agencies for law enforcement purposes, or the use of volunteer canine teams where the handler is not a Washington peace officer or corrections officer.

(2) For purposes of this section, the following definitions shall apply:

(a) "Dog handler" means any fully commissioned law enforcement officer or corrections officer of a state, county, city, municipality, or combination thereof, agency who is responsible for the routine care, control, and utilization of a police dog within a law enforcement or corrections assignment; and

(b) "Canine team" means a specific officer and a specific canine controlled by that officer in the capacity of handler, formally assigned by the employing agency to work together in the performance of law enforcement, or corrections duties.

(c) "Training" means any structured classroom or practical learning exercise conducted, evaluated, and documented by an experienced dog handler or trainer, certified as an instructor with recognized expertise on canine subjects associated with the development of the trainee's competency in the care, control, and utilization of a police dog.

(d) "Evaluator" means a certified peace officer or corrections officer, who has a minimum of three years experience as a canine handler and is recognized as a trainer of canines by a professional organization of police and/or corrections canine handlers/trainers or by the handler's employing agency. The trainer must have trained a canine team in accordance with the training requirements of WAC 139-05-915, or be recognized by the commission as a certified instructor with expertise in canine training of a specific police canine subject for the purpose of testing and certifying canine handlers and dogs to work as a canine team.

(3) A dog handler shall, as a precondition of such assignment, successfully complete the basic law enforcement academy program, or basic correction officer academy or otherwise comply with the basic training requirement prescribed by WAC 139-05-200 and 139-05-210 of the training commission.

(4) Prior to, or within the first six months of such assignment, a dog handler shall successfully complete training according to the nature and purpose of utilization of the police dog for which such handler is responsible.

(a) A dog handler who is responsible for the routine and regular utilization of a police dog within general patrol or investigative activities, shall successfully complete a minimum of four hundred hours of training which shall include, but not be limited to:

(i) Philosophies/theories of police canine;

(ii) Legal and liability aspects, including applicable department policies;

(iii) Public relations;

(iv) Care and maintenance;

(v) Obedience and control;

(vi) Tracking;

(vii) Trailing;

(viii) Area searching;
(ix) Building searching;
(x) Evidence searching;
(xi) Pursuit/holding; and
(xii) Master protection.

(b) A dog handler who is responsible for the primary and specialized utilization of a police dog in the search for and detection of specific substances, excluding explosives, shall successfully complete a minimum of two hundred hours of training which shall include, but not be limited to:

(i) Philosophies/theories of police canine;
(ii) Legal and liability aspects, including applicable department policies;
(iii) Public relations;
(iv) Care and maintenance;
(v) Obedience and control;
(vi) Area searching;
(vii) Building searching;
(viii) Evidence searching; and
(ix) Detection of specific substances.

(c) A dog handler who is responsible for the primary and specialized utilization of a police dog in the search for and detection of explosive substances and devices, shall successfully complete a minimum of two hundred hours of training which shall include, but not be limited to:

(i) Philosophies/theories of police canine;
(ii) Legal and liability aspects, including applicable department policies;
(iii) Public relations;
(iv) Care and maintenance;
(v) Obedience and control;
(vi) Area searching;
(vii) Building searching;
(viii) Evidence searching; and
(iv) Detection of explosives.

(d) A dog handler who is responsible for the routine and regular utilization of a police dog solely for self-protection and assistance in hostile or potentially hostile situations, shall successfully complete at least one hundred eighty hours of training which shall include, but not be limited to:

(i) Philosophies/theories of police canine;
(ii) Legal and liability aspects, including applicable department policies;
(iii) Public relations;
(iv) Care and maintenance;
(v) Obedience and control;
(vi) Pursuit/holding; and
(vii) Master protection.

(5) The commission shall develop and adopt a minimum performance standard for canine teams performing specific law enforcement or corrections functions. It shall be the handler's responsibility to keep their canines under control at all times. Each handler must be able to make his/her canine perform to a level that is deemed acceptable by the commission in the category for the team's intended use as a condition of certification.

(6) Certification of canine teams:

(a) The handler and the canine will be considered as a team and it is the team who will be certified. If the canine changes handlers, a new team exists and the team will need to be certified.

(b) A dog handler may not use a canine for police purposes unless the handler is certified to handle a specific canine for a specific purpose.

(c) In evaluating the proficiency of the canine team, the evaluators shall use the standards approved by the commission for that particular skill category. Performance shall be rated on a pass/fail basis. The evaluator shall have the discretion to discontinue the testing if excessive time has been spent without results, or if there is a concern about safety issues involving the canine, handler, or equipment.

(d) The commission shall certify a canine team who can successfully show proficiency, under scrutiny of a canine evaluator, in one or more of the following areas of patrol and investigation/or detection.

(i) Patrol and investigation:
(A) Obedience;
(B) Protection and control;
(C) Area search;
(D) Building search; and
(E) Tracking.
(ii) Detection:
(A) Buildings;
(B) Vehicles;
(C) Exterior search;
(D) Obedience; and
(E) Building search.

(iii) Expiration of certification: Each certification issued pursuant to these rules shall remain valid as long as the canine team does not change. A canine team's certification shall lapse if the specific handler and canine originally paired at the time of certification, cease to perform canine team functions together. It is recommended that teams recertify on an annual basis.

(iv) Failure to pass certification: If the canine team fails any phase of an evaluation, he/she must be reevaluated in that particular phase.

(v) Appeal: Any handler who believes there have been improper procedures applied in the testing process, may file an appeal with the commission in writing. This appeal must be filed within thirty days of the testing date pursuant to WAC 139-03-020.

(7) Agency required to keep records:

(a) Each agency shall keep training and performance records on canines. The records must stay with the agency responsible for the canine team. The records shall be made available for review in the event that the canine is sold or transferred to another agency. The records shall include, at a minimum, but not be limited to:

(i) Microchip number;
(ii) Canine's name;
(iii) Breed;
(iv) Training received;
(v) Certification date;
(vi) Date acquired or purchased;
(vii) Source from which the canine was acquired;
(viii) Purpose, use, or assignment of canine;
(ix) Handler's name;
(x) The date and reason canine was released from service; and
(xi) Copies of all incident reports in which use of the canine resulted in use of force.

(b) These records shall be retained for a period of one year from the date the canine is removed from active service unless a longer retention is required by statute or local ordinance.

(c) It shall be the responsibility of the handler to advise his/her employing agency of the fact that he/she has met the standards for canine certification. The proof of certification with the evaluator's signature along with a request for canine certification shall be submitted to the commission by the employing agency. This shall be considered as a request for certification. Upon verification that the minimum requirements have been met, the commission shall issue a certificate of certification to the canine team.

(8) Canine recommended to be microchipped:

(a) It is recommended that a canine intended to be used by a law enforcement or corrections agency, be positively identified by having a microchip inserted in the canine. Any canine that is sold by a vendor to a Washington state governmental agency for use as a law enforcement or corrections canine should be able to be identified by microchip placed in the canine at the vendor's expense prior to the canine being sold to the law enforcement or corrections agency.

(b) Once the microchip has been inserted, it is recommended that it not be removed except for medical necessity. If it becomes necessary to remove the microchip, the reason for the removal must be documented and entered into the dog's training records, and a new microchip inserted if medically appropriate.

[Statutory Authority: RCW 43.101.080. 03-07-100, § 139-05-915, filed 3/19/03, effective 4/19/03; 00-17-017, § 139-05-915, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). 86-19-021 (Order 1-B), § 139-05-915, filed 9/10/86.]

WAC 139-05-925 Requirement of training for railroad police officers. (1) For the purpose of this regulation, the term "railroad police" means any individual appointed by the commission under the provisions of RCW 81.60.010 through 81.60.060.

(2) Effective January 1, 2002, as a precondition of any newly appointed railroad police officer to enforce the laws of this state, railroad police shall:

(a) Possess the commission's basic certificate, or in the alternative have successfully completed training and possess a basic certification from another state. In the event certification and training are from another state, the newly appointed railroad police officer must satisfactorily complete the equivalency course approved by the commission, within the first six months of employment.

(b) The above requirements do not apply to railroad police officers appointed prior to January 1, 2002; however, they may, if qualified, attend the equivalency academy.

(c) Railroad police officers whose primary duties are those of administration of other railroad police officers may request an administrative exemption from the above training requirements. Administrative exemptions may be granted by the commission provided that the initial grant and continuing effect of such exemption shall be governed by the provisions of WAC 139-05-200 (2)(c)(i).

(3) It shall be the responsibility of the railroad police officer's employing agency to effect and ensure personnel compliance herein, and provide necessary records, proof of background check information upon request of the commission to which the employing agency shall be accountable for purposes of compliance.

(4) The corporation requesting appointment of a railroad police officer shall bear the full cost of training or any other expenses.

[Statutory Authority: RCW 43.101.080. 03-19-122, § 139-05-925, filed 9/17/03, effective 10/18/03; 02-02-004, § 139-05-925, filed 12/20/01, effective 1/20/02. Statutory Authority: RCW 43.101.080(2). 90-07-012, § 139-05-925, filed 3/13/90, effective 4/13/90.]

Chapter 139-10 WAC
CORRECTIONS

WAC

139-10-215 Basic corrections academy equivalency certification.

WAC 139-10-215 Basic corrections academy equivalency certification. (1) A certificate of equivalent basic corrections training shall be issued only to corrections employees who successfully complete the equivalency process as required by the Washington state criminal justice training commission and shall be recognized in the same manner as the certificate of completion of a basic corrections academy.

(2) Eligibility for participation in the basic equivalency process shall be limited to regular, full-time custody and case management employees of publicly funded corrections agencies within this state who have either:

(a) Obtained certification through successful completion of an accepted basic corrections training program in this or another state.

(b) Previously held certification in this state and incurred a break or interruption of corrections employment in excess of twenty-four months.

The determination of program acceptability shall be the responsibility of the commission's executive director or his/her designee and shall be based upon a description and/or curriculum specifying subject areas and hourly allocation thereto.

(3) The decision to request an employee's participation within the equivalency process shall be discretionary with the chief executive officer of the employing agency. Such request shall be made to the commission in the approved form, signed by the chief executive officer of the requesting agency and shall include:

(a) Documented certification of successful completion of a basic corrections training program accepted by the training commission for the purposes of equivalency participation pursuant to the provisions of section (2) above;

(b) Written curriculum detailing specific areas of training and hours of training in specific areas;

(c) Copies of current and valid basic cardiopulmonary resuscitation (CPR) card and current and valid basic or advanced first-aid card(s) taken within the past year;

(d) Statement of applicant's health and physical condition from a licensed physician giving clearance for participation in physical training and defensive tactics coursework.

(4) Following receipt and acceptance of the above by the training commission, the applicant may participate in the equivalency process which shall include written examina-

tions of specific core material classes, practical testing in basic skill areas, and full participation in mock scenes.

(5) Upon completion of the examination process outlined in section (4) and evaluation of the applicant's performance, the training commission shall:

(a) Issue a certificate of equivalent basic training;

(b) Issue a certificate of equivalent basic training upon applicant's successful completion of additional training as the training commission may require;

(c) Require completion of the appropriate basic corrections academy program.

(6) Any waiver of, or variance in, any above requirement for equivalency participation and/or certification may be granted by the training commission if it is determined that sufficient justification exists for such action. Any action or determination by commission staff regarding a requestor or applicant for equivalency certification may, upon written request of the involved individual or agency, be appealed to the training commission executive director, or designee.

[Statutory Authority: RCW 43.101.080. 03-13-098, § 139-10-215, filed 6/17/03, effective 7/18/03; 00-17-017, § 139-10-215, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). 91-01-041, § 139-10-215, filed 12/12/90, effective 1/12/91.]

Chapter 139-30 WAC

FIREARMS CERTIFICATION—SECURITY GUARDS

WAC

139-30-015 Firearms certification—Application.

WAC 139-30-015 Firearms certification—Application. (1) Any application for firearms certification shall:

(a) Be filed with the commission on a form provided by the commission;

(b) Be signed by the principal owner, principal partner, or a principal corporate officer, of the licensed private security company employing the applicant;

(c) Establish through required documentation or otherwise that applicant:

(i) Is at least twenty-one years of age; and

(ii) Possesses a valid and current private security guard license.

(d) Be accompanied by payment of a processing fee of thirty-one dollars.

(2) After receipt and review of an application, the commission will provide written notification within ten business days to the requesting company regarding applicant's eligibility to obtain and possess a firearms certificate.

(3) An armed private detective must obtain a separate firearm certificate for each firearm that he/she is authorized to use in the performance of his/her duties. All firearms carried by armed private security guards in the performance of their duties must be owned or leased by the employer.

(4) It shall be the responsibility of the employer to insure that the armed private detective demonstrates proficiency standards on an annual basis with each firearm that he/she is certified to use. Proficiency standards shall be set by the commission.

[Statutory Authority: RCW 43.101.080. 03-07-098, § 139-30-015, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.101.080(2). 92-02-040, § 139-30-015, filed 12/24/91, effective 1/24/92.]

Chapter 139-35 WAC

FIREARMS CERTIFICATION—PRIVATE DETECTIVES

WAC

139-35-015 Firearms certification—Application.

WAC 139-35-015 Firearms certification—Application. (1) Any application for firearms certification shall:

(a) Be filed with the commission on a form provided by the commission;

(b) Be signed by the principal owner, principal partner, principal corporate officer, or designated agent of the licensed private detective agency employing the applicant;

(c) Establish through required documentation or otherwise that applicant:

(i) Is at least twenty-one years of age; and

(ii) Possesses a valid and current private detective license.

(d) Be accompanied by payment of a processing fee of thirty-one dollars.

(2) After receipt and review of an application, the commission will provide written notification within ten days to the requesting agency regarding applicant's eligibility to obtain and possess a firearms certificate.

(3) An armed private detective must obtain a separate firearm certificate for each firearm that he/she is authorized to use in the performance of his/her duties.

(4) It shall be the responsibility of the employer to insure that the armed private detective demonstrates proficiency standards on an annual basis with each firearm that he/she is certified to use. Proficiency standards shall be set by the commission.

[Statutory Authority: RCW 43.101.080. 03-07-098, § 139-35-015, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.101.080(2). 92-02-041, § 139-35-015, filed 12/24/91, effective 1/24/92.]

Title 148 WAC

DEAF, WASHINGTON STATE SCHOOL FOR THE

Chapters

148-120 Student conduct code.
148-280 Family Educational Rights and Privacy Act of 1974.

Chapter 148-120 WAC

STUDENT CONDUCT CODE

WAC

148-120-400 Emergency expulsion—Limitations.
148-120-405 Emergency expulsion—Notice of hearing—Waiver of hearing right.
148-120-410 Emergency expulsion—Prehearing and hearing process.
148-120-415 Appeals—Long-term suspension and expulsion.

WAC 148-120-400 Emergency expulsion—Limitations. Notwithstanding any other provision of this chapter, a student may be expelled immediately by the superintendent or a designee of the superintendent in emergency situations: Provided, That the superintendent or designee has good and sufficient reason to believe that the student's presence poses an immediate and continuing danger to the student, other students, or school personnel or an immediate and continuing threat of substantial disruption of the educational process. An emergency expulsion shall continue until rescinded by the superintendent or his or her designee, or until modified or reversed pursuant to the hearing provisions set forth in WAC 148-120-410 or the appeal provisions set forth in WAC 148-120-415.

[Statutory Authority: RCW 72.40.023. 04-02-002, § 148-120-400, filed 12/24/03, effective 1/24/04.]

WAC 148-120-405 Emergency expulsion—Notice of hearing—Waiver of hearing right. (1) The student and his or her parent(s) or guardian(s) shall be notified of the emergency expulsion of the student and of their opportunity for a hearing either (a) by hand delivering written notice to the student's parent(s) or guardian(s) within twenty-four hours of the expulsion and documenting delivery by obtaining his or her signature acknowledging receipt or the written certification of the person making the delivery, or (b) by certified letter(s) deposited in the United States mail, within twenty-four hours of the expulsion: Provided, That if the emergency expulsion is based upon a failure to comply with the state immunization law (see chapter 180-38 WAC), the notice must be received by the student's parent(s) or guardian(s) prior to the emergency expulsion of the student regardless of the method of delivery. In addition, if the notice is by certified letter, reasonable attempts shall be made to notify the student and his or her parent(s) or guardian(s) by telephone or in person as soon as reasonably possible. Such written and oral notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible,

(b) Specify the alleged reason(s) for the emergency expulsion,

(c) Set forth the corrective action or punishment taken and proposed,

(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s) as soon as reasonably possible, and

(e) Set forth the facts that:

(i) A written (or "oral" if provided for by school policy) request for a hearing must be received by the school employee designated, or by his or her office, on or before the expiration of the tenth school business day after receipt of the notice of opportunity for a hearing, and

(ii) If such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the emergency expulsion may be continued as deemed necessary by the school without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business days" potentially applicable to the exercise of such hearing right should be included with the notice.

(2) The student and/or his or her parent(s) or guardian(s) shall reply to the notice of opportunity for a hearing and request a hearing within ten school business days after the date of receipt of the notice. A request for a hearing shall be provided to the school employee specified in the notice of opportunity for a hearing, or to his or her office. A request for a hearing shall be accepted if in writing and may be accepted orally if expressly provided for and allowed by rule of the school.

(3) If a request for a hearing is not received within the required ten school business day period, the school may deem the student and his or her parent(s) or guardian(s) to have waived the right to a hearing and the emergency expulsion may be continued as deemed necessary by the school district.

[Statutory Authority: RCW 72.40.023. 04-02-002, § 148-120-405, filed 12/24/03, effective 1/24/04.]

WAC 148-120-410 Emergency expulsion—Prehearing and hearing process. (1) If a request for a hearing within the required ten school business days is received pursuant to WAC 148-120-405, the school shall immediately schedule and give notice of a hearing to commence as soon as reasonably possible and in no case later than the third school business day after receipt of the request for hearing.

(2) The student and his or her parent(s) or guardian(s) shall have the right to:

(a) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing,

(b) Be represented by legal counsel,

(c) Question and confront witnesses, unless a school witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school. The evidence submitted by the school must at a minimum establish either:

(i) That the school made a reasonable effort to produce the witness and is unable to do so; or,

(ii) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible school official(s) or the student of retaliation against the student if he or she appears as a witness,

(d) Present his or her explanation of the alleged misconduct, and

(e) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires.

(3) The designee(s) of the school assigned to present the school's case and/or the assistant attorney general shall have the right to inspect in advance of the hearing any documentary and other physical evidence that the student and his or her parent(s) or guardian(s) intend to introduce at the hearing.

(4) The person(s) hearing the case shall not be a witness and the guilt or innocence of the student shall be determined solely on the basis of the evidence presented at the hearing.

(5) Either a tape-recorded or verbatim record of the hearing shall be made.

(6) Within one school business day after the date upon which the hearing concludes, a decision as to whether or not the expulsion shall be continued shall be rendered, and the student's legal counsel or, if none, the student and his or her

parent(s) or guardian(s) shall be notified thereof by depositing a certified letter in the United States mail. The decision shall set forth the findings of fact, the conclusions (including a conclusion as to whether or not the emergency situation giving rise to the emergency expulsion continues), and whether or not the emergency expulsion shall be continued or a lesser form of corrective action or punishment is to be imposed.

(7) An emergency expulsion may be continued following the hearing on the basis that the emergency situation continues and/or as corrective action or punishment for the action(s) giving rise to the emergency expulsion in the first instance.

[Statutory Authority: RCW 72.40.023. 04-02-002, § 148-120-410, filed 12/24/03, effective 1/24/04.]

WAC 148-120-415 Appeals—Long-term suspension and expulsion. Appeals from decisions rendered pursuant to WAC 148-120-236 and 148-120-410 which impose either a long-term suspension or an expulsion upon a student shall be governed as follows:

(1) Appeals may be heard and decided by a disciplinary appeal council established by the Board. The disciplinary appeal council shall be appointed by the school board of trustees for fixed terms and shall consist of not less than three persons.

(2) If an appeal is not taken to the disciplinary appeal council within the required three school business day period, the suspension or expulsion decided upon may be imposed as of the calendar day following expiration of the three school business day period.

(3) If a timely appeal is taken to the disciplinary appeal council, the suspension or expulsion may be imposed during the appeal period subject to the following conditions and limitations:

(a) A long-term suspension or nonemergency expulsion may be imposed during the appeal period for no more than ten consecutive school days or until the appeal is decided, whichever is the shortest period;

(b) An emergency expulsion may be continued during the appeal period for so long as the student continues to pose an immediate and continuing danger to the student, other students, or school personnel or an immediate and continuing threat of substantial disruption of the educational process of the student's school;

(c) Any days that a student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student's suspension or expulsion and shall not limit or extend the term of the student's suspension or expulsion; and

(d) Any student subjected to a temporary suspension who returns to school before the appeal is decided shall be provided the opportunity upon his or her return to make up assignments and tests missed by reason of the suspension if:

(i) Such assignments or tests have a substantial effect upon the student's semester or trimester grade or grades; or

(ii) Failure to complete such assignments or tests would preclude the student from receiving credit for the course or courses.

(4) An appeal from any decision of the disciplinary appeal council to impose or to affirm the imposition of a long-term suspension or an expulsion shall be to the courts. Whether or not the decision of the disciplinary appeal council shall be postponed pending an appeal to superior court shall be discretionary with the school board or disciplinary appeal council except as ordered otherwise by a court.

[Statutory Authority: RCW 72.40.023. 04-02-002, § 148-120-415, filed 12/24/03, effective 1/24/04.]

Chapter 148-280 WAC

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974

WAC

148-280-010 Confidentiality of student records.
148-280-011 Definitions.
148-280-015 Notice.
148-280-020 Education records—Access rights.
148-280-025 Education records—Access procedures.
148-280-030 Education records—Amendment.
148-280-040 Disclosure of personally identifiable information from education records.
148-280-050 Repealed.
148-280-055 Record of access.
148-280-060 Destruction of information.
148-280-070 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

148-280-050 Safeguards. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-050, filed 7/19/90, effective 8/19/90.] Repealed by 03-20-014, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.011.

148-280-070 Directory information. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-070, filed 7/19/90, effective 8/19/90.] Repealed by 03-20-014, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.011.

WAC 148-280-010 Confidentiality of student records. The Washington school for the deaf implements policy contained in this chapter in compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Sec. 1232(g) (FERPA), and the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1412 (a)(8). These laws establish that the education records of students attending or having attended the school are confidential and can be released only with written permission of the parent (or adult student). The primary rights of parents and adult students under FERPA are:

(1) To inspect and review education records;

(2) To request amendment of education records; and

(3) To have some control over the disclosure of information from education records.

[Statutory Authority: RCW 72.40.011. 03-20-014, § 148-280-010, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-010, filed 7/19/90, effective 8/19/90.]

WAC 148-280-011 Definitions. As used in this chapter:

(1) "Directory information" means information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to the student's name, photograph, address, telephone listing, date and place of

birth, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, diplomas, honors, and awards received, and previous school attended.

(2) "Disclosure" means to permit access to or the release, transfer, or other communication of education records, or the personally identifiable information contained in those records, to any party, by any means, including oral, written, or electronic means.

(3) "Education records" means those records, files, documents, and other materials that are:

(a) Maintained by the school; and

(b) Directly related to a student.

The term "education records" does not include:

(i) Records of school staff that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

(ii) Records created and maintained by school security or the law enforcement unit of the school;

(iii) Records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and which are not available for any other purpose: Provided, That this exception does not apply to records relating to an individual in attendance at the school who is employed as a result of his or her status as a student;

(iv) Records on a student who is eighteen years of age or older that are created and maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity and that are created, maintained, or used only in connection with the treatment of the student; and are not available to anyone other than persons providing such treatment; provided, however, that such records can be personally reviewed by a physician or other appropriate professional of the student's choice; and

(v) Records that contain only information relating to an individual after he or she is no longer a student at the school.

(4) "Adult student" means a student who has reached eighteen years of age. When a student becomes an "adult student," the rights accorded to, and the consent required of, parents under this chapter transfer from the parents to the student.

(5) "Legitimate educational interest" means the necessity to review educational records in order to fulfill professional responsibility, perform a function related to a student's education or discipline, or maintain safety and security.

(6) "Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

(7) "Personally identifiable information" includes, but is not limited to the student's name; the name of the student's parent or other family member; the address of the student or student's family; a personal identifier, such as the student's Social Security number or student number; a list of personal characteristics that would make the student's identity easily traceable; or other information that would make the student's identity easily traceable.

(8) "School official" includes a person employed by the school as a teacher, administrator, supervisor, counselor, support staff member (including health or medical staff and law enforcement unit personnel), a person serving on the school board of trustees, a person with whom the school has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist), or a parent or student serving on an official committee or assisting another school official in performing his or her tasks.

[Statutory Authority: RCW 72.40.011. 03-20-014, § 148-280-011, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-011, filed 7/19/90, effective 8/19/90.]

WAC 148-280-015 Notice. The school shall provide parents and adult students with annual notice of their rights as defined by FERPA by publication in the parent/student handbook.

[Statutory Authority: RCW 72.40.011. 03-20-014, § 148-280-015, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-015, filed 7/19/90, effective 8/19/90.]

WAC 148-280-020 Education records—Access rights. (1) A parent, adult student, or representative of the parent has the right to inspect and review the education records of the student.

(2) Where the education record or data includes information on more than one student, the parent(s) of those students (or the adult students) shall have the right to inspect and review only the information relating to their child (or themselves) or to be informed of that specific information.

(3) The parent (or adult student) has the right to obtain copies of the student's education records. Charges for the copies shall not exceed the cost normally charged by the school. However, if the fee effectively prevents the parent (or adult student) from exercising the right to inspect and review the student's education records, the school may provide such copies free of charge.

(4) The school may presume that a parent has authority to inspect and review records relating to his/her child unless the school has been advised that there is a court order, parenting plan, or legally binding document relating to such matters as dissolution, separation, guardianship, or custody that specifically revokes these rights.

(5) The parent (or adult student) has the right to a response from the school to reasonable requests for explanations and interpretations of the records.

[Statutory Authority: RCW 72.40.011. 03-20-014, § 148-280-020, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-020, filed 7/19/90, effective 8/19/90.]

WAC 148-280-025 Education records—Access procedures. (1) A list of the types and locations of education records collected, maintained, or used by the school may be obtained by the parent (or adult student) at the superintendent's office.

(2) A request by a parent (or adult student) to inspect and review education records should be made in writing to the supervising administrator K-12 (i.e., building principal).

(3) The supervising administrator K-12 or his/her designee shall respond to reasonable requests for inspection, explanation, and interpretation of education records within

forty-five days from the date the request was received and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the student. If the supervising administrator K-12 is unable to comply with a request within the above stated period, he or she shall inform the parent (or adult student) of that fact and the reasons in writing.

[Statutory Authority: RCW 72.40.011. 03-20-014, § 148-280-025, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-025, filed 7/19/90, effective 8/19/90.]

WAC 148-280-030 Education records—Amendment. (1)(a) A parent (or adult student) who believes that information contained in the education record is inaccurate, misleading, or violates the privacy or other rights of the student, may request the school to amend the information.

(b) A parent (or adult student) shall not be permitted under this chapter to challenge the validity of grades which are accurately recorded.

(2) The school shall decide whether to amend the record as requested within a reasonable time after receipt of the request.

(3) If the school decides to deny the request, it shall inform the parent (or adult student) of the decision and of the right to a hearing. The hearing shall be a brief adjudicative proceeding.

(4) The school will conduct a hearing within a reasonable time after it has received the request for a hearing.

(a) Notice of the date, time and place shall be provided reasonably in advance of the hearing.

(b) The hearing will be conducted by a hearing officer who is a disinterested party. This hearing officer may be a school official. The parent (or adult student) shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend an education record. The parent (or adult student) may, at their own expense, be assisted at the hearing by one or more individuals, including an attorney.

(c) The hearing officer will prepare a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision.

(5) If, as a result of the hearing, the school decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parent (or adult student) in writing.

(6) If, as a result of the hearing, the school decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parent (or adult student) of the right to place in the record a statement commenting on the challenged information and/or a statement of the parent's (or adult student's) reasons for disagreeing with the decision of the school.

(7) Any explanation placed in the records of the student under this section must:

(a) Be maintained by the school as part of the records of the student as long as the record or contested portion is maintained by the school; and

(b) Be included with any disclosure of the record or contested portion to which the explanation relates.

[Statutory Authority: RCW 72.40.011. 03-20-014, § 148-280-030, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-030, filed 7/19/90, effective 8/19/90.]

WAC 148-280-040 Disclosure of personally identifiable information from education records. (1) The school shall not disclose information from education records (other than "directory information") without the written consent of the parent (or adult student) except that records may be disclosed without consent when disclosure is to:

(a) School officials who have a legitimate educational interest in the records;

(b) Officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll. Pursuant to RCW 28A.225.330, records disclosed under this subsection will include disciplinary action, violent behavior or behavior listed in RCW 13.04.155, attendance, immunization records, and academic performance. The school shall provide the parent (or adult student), upon request, with a copy of the records disclosed and an opportunity for a hearing to challenge the content of the record;

(c) Federal and state officials requiring access to education records in connection with the audit and evaluation of a federal or state-supported education program, or in connection with the enforcement of or compliance with federal or state legal requirements which relate to such programs;

(d) Organizations conducting studies for, or on behalf of the school, for purposes of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction: Provided, That the study is conducted in such a manner that does not permit the personal identification of parents and students by persons other than representatives of such organizations, and such information is destroyed when no longer needed for the purposes for which it was provided;

(e) Accrediting organizations in order to carry out their accrediting functions;

(f) Any person or entity designated by judicial order or lawfully issued subpoena: Provided, That the school shall make a reasonable effort to notify the parent (or adult student) in advance of compliance, unless such notification and disclosure is specifically prohibited by an order of the court or other issuing agency or the order has been issued *ex parte*.

(i) If the school initiates legal action against a parent or student, the school may disclose to the court, without a court order or subpoena, the education records of the student that are relevant and necessary for the school to proceed with the legal action.

(ii) If a parent or student initiates legal action against the school, the school may disclose to the court, without a court order or subpoena, the student's education records that are relevant and necessary for the school's defense;

(g) State and local officials or authorities if specifically required by state law adopted before November 19, 1974, or if reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student prior to adjudication;

(h) Appropriate persons in connection with a health or safety emergency if knowledge of such information is necessary to protect the health or safety of a student or other individuals;

(i) Teachers and school officials in other schools and school districts, and teachers, security personnel and other personnel at the Washington school for the deaf who have a legitimate educational interest in the behavior of the student when the information concerns disciplinary action taken against the student for behavior that posed a significant risk to safety or well-being of that student, other students, or other members of the school community, or a history of violent behavior or behaviors listed in RCW 13.04.155. "Disciplinary action" means the investigation, adjudication or imposition of sanctions by the school for an infraction or violation of the student conduct code.

(2) Where the consent of a parent (or adult student) is obtained for the release of education records, it shall be in writing, signed and dated by the person giving such consent, and shall include:

(a) A specification of the records to be released;

(b) The reasons for such release; and

(c) The names of the parties to whom such records will be released.

(3) When a disclosure is made under subsection (2) of this section, if a parent (or adult student) so requests, the school shall provide him or her with a copy of the records disclosed.

(4) Personally identifiable education records released to third parties, with or without parent (or adult student) consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally identifiable form to any other party without the prior consent of the parent (or adult student).

(5) "Directory information" may be disclosed without the parent's (or adult student's) prior written consent, unless the parent (or adult student) notifies the school in writing within ten days of enrollment and thereafter by the tenth day of the academic year that he or she does not want any or all of the student's information to be designated as directory information.

[Statutory Authority: RCW 72.40.011. 03-20-014, § 148-280-040, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-040, filed 7/19/90, effective 8/19/90.]

WAC 148-280-050 Repealed. See Disposition Table at beginning of this chapter.

WAC 148-280-055 Record of access. (1) The school shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student.

(2) The school shall maintain the record with the education records of the student as long as the records are maintained.

(3) For each request or disclosure the record must include:

(a) The name of the party who had requested or received information;

(b) The date access was given; and

(c) The legitimate interest or purpose the party has in requesting or obtaining the information.

(4) If the party receiving personally identifiable information makes further disclosures of the information on behalf of the school, the record must include:

(a) The names of additional parties to which the receiving party may disclose the information; and

(b) The legitimate interests under WAC 148-280-040 which each of the additional parties has in requesting or obtaining the information.

(5) Subsection (1) of this section does not apply if the request was from, or the disclosure was to:

(a) The parent or adult student;

(b) A designated school official with a legitimate educational interest under WAC 148-280-040 (1)(a);

(c) A party with written consent from the parent or adult student;

(d) A party seeking directory information; or

(e) A party seeking or receiving records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

[Statutory Authority: RCW 72.40.011. 03-20-014, § 148-280-055, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-055, filed 7/19/90, effective 8/19/90.]

WAC 148-280-060 Destruction of information. (1) Student education records may be destroyed in accordance with state laws and regulations: Provided, That the school shall not destroy any education records if there is an outstanding request to inspect and review the records under this chapter.

(2)(a) The school shall inform parents (or adult students) when personally identifiable information is no longer needed to provide educational services to the student.

(b) At the request of a parent (or adult student), the school shall destroy personally identifiable information. However, the school may maintain a permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year of completion without time limitation.

(3) For the purpose of this section, "destruction" shall mean physical destruction or removal of personal identifiers.

[Statutory Authority: RCW 72.40.011. 03-20-014, § 148-280-060, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-060, filed 7/19/90, effective 8/19/90.]

WAC 148-280-070 Repealed. See Disposition Table at beginning of this chapter.

Title 172 WAC

EASTERN WASHINGTON UNIVERSITY

Chapters

172-64 **Alcohol policy at Eastern Washington University.**

Chapter 172-64 WAC

ALCOHOL POLICY AT EASTERN WASHINGTON UNIVERSITY

WAC

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172-64-110 University enforcement of alcohol policy.
172-64-120 Violations of local, state, and federal law.
172-64-130 Student violations of the university alcohol policy.
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WAC 172-64-010 Statement of purpose. The purpose of this policy is to further the university mission by creating a safe environment for student learning. To accomplish this, the university will support the enforcement of federal, state, and local laws, as well as its own alcohol and drug policies and procedures. The university will also encourage university functions in a controlled environment that reduces risk and creates positive experiences. This policy recognizes community standards of responsibility and accountability in the use of alcohol and the expectation that individuals have a right to learn, to work, and to live free from the disruptions and consequences of alcohol abuse by others. It is the responsibility of every member of the university community to know the risks associated with the use and abuse of alcohol and to assist the university, its faculty, staff, administrators, and students in creating an environment that promotes health-enhancing attitudes and activities.

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-010, filed 8/29/03, effective 9/29/03.]

WAC 172-64-020 Introduction. At Eastern Washington University, diversity of opinion and freedom of choice involves the exercise of personal responsibility that includes the obligation to make sound judgments regarding the use of alcohol. This alcohol policy was developed by a community-wide committee of faculty, administrators, students, and Cheney and Spokane community members as a reasonable set of standards to enhance a positive campus environment. These rules and regulations are an important and necessary part of the overall commitment of a comprehensive alcohol education program at EWU. In addition to these guidelines, the most important factor in the reduction of alcohol-related problems is the human capacity to act responsibly. Therefore, the university has an expectation that individuals and groups know and understand the risk and liability associated with the consumption of alcoholic beverages.

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-020, filed 8/29/03, effective 9/29/03.]

WAC 172-64-030 Policy statement. Eastern Washington University allows the legal use, possession, and distribution of alcohol on campus under the conditions stipulated in this policy and complies with and upholds all federal, state, and local laws that regulate or prohibit the possession, use, or distribution of alcohol. Violations of such laws that come to the attention of university officials will be addressed within the university or through prosecution in the courts, or both. All university faculty, staff, administrators, and students are hereby notified of the following standards of conduct that the university will apply to all activities conducted on university owned property and at university sponsored events. Furthermore, these standards will apply to all guests on university owned property and at university sponsored events. It is the responsibility of all members of the university community to familiarize themselves and their guests with relevant federal, state, and local laws as well as the following standards, procedures, and guidelines for the possession, use, and distribution of alcohol, and act accordingly.

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-030, filed 8/29/03, effective 9/29/03.]

WAC 172-64-040 Washington state law. Members of the university community are responsible for the observance of state and federal laws including those that apply to alcohol. Some of the laws most relevant to the university community are the following:

(1) **It is unlawful:**

(a) For anyone under twenty-one years of age to possess alcohol (RCW 66.44.270);

(b) To sell, purchase, deliver, or furnish alcohol, except a parent or legal guardian, to anyone under twenty-one years of age (RCW 66.44.270);

(c) To sell purchase, deliver, or furnish alcohol to an intoxicated person (RCW 66.44.200);

(d) To consume alcohol in a public place, exceptions defined in RCW 66.44.100;

(e) To misrepresent one's age to obtain alcohol (RCW 66.44.310);

(f) To drive under the influence of alcohol (RCW 46.61.502 and 46.61.503).

(2) **Driving under the influence:**

(a) It is unlawful to drive if your blood or breath alcohol concentration (BAC) meets or exceeds 0.08 percent or under the influence of drugs (RCW 46.61.502);

(b) It is unlawful to drive if alcohol has impaired your ability to drive safely, even if your BAC is under the legal limit (RCW 46.61.503);

(c) For a person under the age of twenty-one, it is unlawful to drive if your blood or BAC meets or exceeds 0.02 percent (RCW 46.61.503).

(3) **Open container law:**

(a) Alcoholic beverages may not be consumed in a vehicle nor be carried within reach of the driver or passengers. Open containers may be carried in a trunk or nonpassenger areas (not glove boxes). Does not apply to vehicles commercially chartered by groups or to the living quarters of motor homes or campers (RCW 66.44.100 and 46.61.519).

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-040, filed 8/29/03, effective 9/29/03.]

WAC 172-64-050 Locations where those of legal drinking age may possess, consume, or serve alcoholic beverages. (1) Inside individual rooms of residence halls, where all residents of the room are of legal drinking age (whether or not all residents are home), all present in the room are of legal drinking age, and the residence hall is not designated substance free and/or clean and sober.

(2) Inside fraternity and sorority facilities, in accordance with respective national organizational policies and university guidelines.

(3) Areas owned or controlled by the university, in accordance with the following guidelines for the use, possession, and sale of alcohol.

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-050, filed 8/29/03, effective 9/29/03.]

WAC 172-64-060 Guidelines for university recognized events serving alcohol. Any person or group of persons holding a function at a location where consumption of alcoholic beverages is permitted under the provisions of this policy shall abide by the following regulations in preparing for and conducting the function. Additional guidelines for serving and consumption of alcoholic beverages may be established by the person or group holding the function.

(1) **Obtaining permission to serve alcohol.**

(a) Written permission for a function sponsored by an individual or group, at which alcohol will be available, must be obtained from the president or his/her designee, along with a banquet permit application. Decisions regarding the approval or denial of permission to serve alcohol shall be made according to what is deemed to be in the best interest of the institution as expressed by the university mission statement and this policy's statement of purpose. Reasons for denial of a permit may include but are not limited to: Conflict with primary academic use of facilities; performance record of sponsors in prior events; or failure to satisfy guidelines.

(b) Such approved function shall be subject to the regulations set forth in this policy. Complete information on procedures to obtain permission is available at numerous locations on campus.

(c) Permission to serve or consume alcohol must be requested seven days prior to the event.

(2) **Proof of age and access to alcohol.**

(a) The person or group(s) holding the event must establish precautionary measures (check identification) at the function to ensure that alcoholic beverages are not served to persons under the legal drinking age or to persons who appear intoxicated.

(b) At the function, a person (or persons) over the legal drinking age must be designated as the server(s). It is the responsibility of the designated server(s) to enforce proof of age and access to alcohol regulations as outlined in the banquet permit application and this policy.

(c) The only alcoholic beverages that may be possessed or consumed at the function are those alcoholic beverages served at the function, and the alcoholic beverages must be consumed within the designated area in which the function is held.

(3) **Alternative beverages.** Nonalcoholic beverages must be available at the same place as the alcoholic beverages and featured as prominently as the alcoholic beverages.

(4) **Security measures.** The university police department shall, when informed of activities and events involving alcoholic beverages, determine appropriate security measures to be taken and coordinated with the events' sponsor and appropriate administrative staff of the university as may be necessary to assist in compliance with state laws and university regulations.

(5) **Publicity and advertising.**

(a) All announcement(s) or advertisement(s), including but not limited to flyer(s), notice(s), poster(s), banner(s), teeshirts(s) and newspaper and radio announcement(s), concerning the function shall note the availability of nonalcoholic beverages as prominently as the availability of alcoholic beverages; and that proper identification is required in order to be served or sold alcoholic beverages; and must not make reference to the amount of alcoholic beverages available, as, for example, the number of kegs of beer available at the event; nor to any form of drinking contest.

(b) Advertising which promotes university events must not portray drinking as a solution to personal or academic problems or as necessary to social, sexual, or academic success.

(c) Promotion of alcoholic beverage brands at the activity must not encourage any form of alcohol abuse nor place emphasis on quantity and frequency of use.

(d) Alcoholic beverages, such as kegs or cases of beer, shall not be provided as free awards, prizes or rewards, to individual(s) or groups.

(6) **Prohibition of drinking games.** Drinking contests or any other activities which encourage the rapid and/or excessive consumption of alcoholic beverages shall not be permitted.

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-060, filed 8/29/03, effective 9/29/03.]

WAC 172-64-070 Guidelines for the selling of alcohol at university recognized events. (1) Any function sponsored by faculty, staff, administrators, or students or a faculty, staff, administrator, or student group(s) at which alcoholic beverages are sold or served, whether or not the function is open to the public, may be held in those areas permitted under the provisions of this policy only after a banquet permit and written approval is obtained for such function from the president or his/her designee.

(2) Functions at which alcoholic beverages are sold shall include functions at which alcoholic beverages are served and for which an admission fee is charged, at which cups are sold, at which tickets are sold, at which cash or anything else of value is exchanged for alcoholic beverages, or at which donations are collected by the group, or members thereof, sponsoring the function. Functions open to the public shall be

defined as those functions to which the general public has been invited through oral, written, or printed announcement(s), advertisement(s) or invitation(s).

(3) Consideration of all the policy guidelines already outlined must be presented when requesting permission to serve or sell alcohol.

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-070, filed 8/29/03, effective 9/29/03.]

WAC 172-64-080 Guidelines for university social events in conjunction with alcohol vendors. Faculty, staff, administrator, or student group(s) may sponsor an activity involving a commercial off-campus vendor involved in the manufacture, distribution, or retail sales of alcoholic beverages. Sponsors of university events may invite vendors of alcoholic beverages to provide and/or sell alcoholic beverages for the event; however, vendors of alcoholic beverages cannot sponsor university activities. University groups(s) and organization(s) may involve the services of a vendor of alcoholic beverages under the following guidelines:

(1) The group(s) sponsoring the activity shall be responsible for all aspects of the activity, including all publicity and advertising.

(2) Advertising and publicity must reflect sole sponsorship of the event as being that of the group(s).

(3) Advertising or announcements (posters, banners, flyers, radio and newspaper advertisements, tee-shirts, etc.) may reflect a vendor's involvement, but must not indicate or convey sponsorship by the vendor.

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-080, filed 8/29/03, effective 9/29/03.]

WAC 172-64-090 Guidelines for off-campus events. University recognized events held off-campus, are expected to abide by the university alcohol policy guidelines for proof of age and access to alcohol; alternative beverages; publicity and advertising; and prohibition of drinking games, in addition to all applicable state laws and local ordinances. Faculty, staff, administrators, students, and their organizations are subject to disciplinary action by the university as it relates to violations of laws, ordinances, and university rules.

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-090, filed 8/29/03, effective 9/29/03.]

WAC 172-64-100 Guidelines for serving alcohol at nonuniversity sponsored events. Any individual or group of individuals who are not affiliated with Eastern Washington University, who wish to use university property for an event (i.e., weddings, community group meetings, etc.), must comply with all state and local laws and with this policy.

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-100, filed 8/29/03, effective 9/29/03.]

WAC 172-64-110 University enforcement of alcohol policy. This enforcement policy applies to any violation of the federal, state, and local laws; and the university alcohol policy.

Responsibility for compliance with these regulations and with all applicable laws will be incumbent upon all members of the university community, including all faculty, staff, administrators, students, and their guests.

The sanctions imposed under this policy do not diminish or replace the penalties available under generally applicable civil or criminal laws. The university community is reminded that many violations of the standards may violate various federal, state, and local laws. In addition to the division of students affairs and the dean of students; residential life and housing; individual academic units; human resources; and Greek life may maintain internal policies and procedures for violations of the university alcohol policy, and may impose sanctions against individuals and groups in violation of their policies involving alcohol.

The university alcohol policy shall apply to every function or event, social event, and campus-wide activity sponsored by organizations or individuals associated with the university. In addition, off-campus university events that imply or express university affiliation are bound by this policy. This policy also applies to activities at all university campus sites.

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-110, filed 8/29/03, effective 9/29/03.]

WAC 172-64-120 Violations of local, state, and federal law. Violations of local, state, and federal law may be referred to local law enforcement. Violations that might lead to consultation with local law enforcement officials for possible prosecution include the following:

(1) Use of alcohol by minors;

(2) Alcohol-related behavior that is dangerous, destructive, disruptive, or illegal;

(3) Use of or furnishing of false identification to purchase or be served alcohol;

(4) Furnishing alcohol to anyone under twenty-one years of age.

Violations involving students will be reported to the dean of students.

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-120, filed 8/29/03, effective 9/29/03.]

WAC 172-64-130 Student violations of the university alcohol policy. (1) Student violations of the university alcohol policy will be considered violations of the student conduct code.

(2) A broad range of consequences can be considered. For individual students, consequences can include:

(a) Mandatory attendance at a prevention education program;

(b) Loss of privileges, restitution, community service, and/or fines;

(c) Eviction from university owned or controlled housing;

(d) Suspension and/or dismissal from the university, or;

(e) Some combination of the above.

(3) For student groups, possible consequences can include:

(a) Suspension of privileges;

(b) Probation;

(c) Fines;

(d) Removal of officers from office;

(e) Elimination of student fee support from the university; and

(f) Suspension, or forced disbandment.

(4) The revised (October 1998) Federal Educational Rights and Privacy Act allows for institutions of higher education to disclose, to a parent or legal guardian of a student, information regarding any violation of any federal, state, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, regardless of whether the information is contained in the student's education records, if (a) the student is under the age of twenty-one; and (b) the institution determines that the student has committed a disciplinary violation with respect to such use or possession.

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-130, filed 8/29/03, effective 9/29/03.]

WAC 172-64-140 Employee violations of the university alcohol policy. Violations of this policy may result in:

(1) Disciplinary action, including termination of employment, in accordance with applicable personnel rules, chapter 251-11 WAC for classified employees, and EWU policies and procedures manual for other employees, collective bargaining agreements, or other policies of the university and/or;

(2) The requirement of satisfactory participation in evaluation and/or treatment in an approved chemical dependency assistance or rehabilitation program.

[Statutory Authority: RCW 28B.35.120(12). 03-18-070, § 172-64-140, filed 8/29/03, effective 9/29/03.]

Title 173 WAC

ECOLOGY, DEPARTMENT OF

Chapters

173-06	**Delegation of powers.**
173-26	**State master program approval/amendment procedures and master program guidelines.**
173-157	**Underground artificial storage and recovery.**
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173-183	**Preassessment screening and oil spill compensation schedule regulations.**
173-201A	**Water quality standards for surface waters of the state of Washington.**
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173-350	**Solid waste handling standards.**
173-434	**Solid waste incinerator facilities.**

Chapter 173-06 WAC

DELEGATION OF POWERS

WAC

173-06-120 Delegation.

WAC 173-06-120 Delegation. (1) Consistent with their assigned duties and responsibilities, department employees are delegated authority to act on behalf of the director and department in the administration of programs and all other duties assigned to the department.

(2) The department shall, by formal policy, specify the extent of signature authority for department employee positions whose assigned duties and responsibilities include authority to take formal action on behalf of the director and/or the department, including, but not limited to, the issuance of penalties, orders, directives, permits, or other decisions reviewable before appropriate administrative or judicial bodies. Such policy may specify the extent of signature authority for department employee positions whose assigned duties and responsibilities include authority to take other action on behalf of the director and/or department. Such policies may be amended as appropriate. Copies of this policy shall be available for public review upon request.

(3) For department employees whose assigned duties and responsibilities include authority to approve or deny reports, plans and specifications, or amendments thereto, prepared by a registered professional, such approval or denial must be based on services provided by a similarly registered professional in accordance with state law.

(4) Any department employee whose assigned duties and responsibilities include signature authority to act on behalf of the director and/or department, may not delegate any such authority to an employee that he or she supervises unless such additional delegation is provided for in a written delegation letter. The written delegation letter shall be signed by the employee granting delegation and the employee receiving delegation. A department employee receiving such delegation shall not further delegate authority, except as provided in subsection (5) of this section. Each written delegation letter shall also include the position number of the employee receiving delegation. Unless rescinded, authority granted by a written delegation letter remains in effect as long as the employee delegated authority retains the same position number. A copy of each written delegation letter shall be maintained in a file within the department program in which the employee receiving delegation is assigned. Employees granting delegation pursuant to this provision may, upon written notification to the employee receiving delegation, rescind delegation at any time. A copy of each letter rescinding delegation shall be maintained in a file within the department program in which the employee rescinding delegation is assigned. An employee granting delegation pursuant to this paragraph does not relinquish his or her delegated authority to act on the behalf of the director or the department.

(5) In addition to the delegation described in subsection (4) of this section, any department employee whose assigned duties and responsibilities include signature authority to act on behalf of the director and/or department, may designate another department employee to serve in a temporary or acting capacity. Any employee properly designated to serve in a temporary or acting capacity shall have the same delegated authority as the department employee permanently holding the position, unless the delegation letter provides otherwise. Proper designation to serve in temporary or acting capacity for a position shall consist of a letter to the individual assuming temporary or acting capacity from the employee who per-

manently serves in the position or from the director. A department employee receiving such delegation shall not further delegate authority.

(6) During the absence of an employee delegated authority pursuant to this rule, employees responsible for supervising the absent employee may perform the absent employee's delegated functions.

(7) The authority delegated in this rule is limited to the power to act for the department in carrying out functions within the power of the department, and shall not be construed to authorize acts which are contrary to law or beyond the authority of the department.

(8) Nothing in this chapter shall preclude the director from delegating in writing specific signature authority to any employee of the department nor in any way limit the authority of the director to act on behalf of the department.

[Statutory Authority: RCW 34.05.322, 43.21A.080, and 43.21A.090. 03-10-019 (Order 02-18), § 173-06-120, filed 4/28/03, effective 5/29/03. Statutory Authority: RCW 43.21A.090. 95-07-058 (Order 94-45), § 173-06-120, filed 3/9/95, effective 4/9/95.]

Chapter 173-26 WAC

STATE MASTER PROGRAM APPROVAL/AMENDMENT PROCEDURES AND MASTER PROGRAM GUIDELINES

WAC

173-26-010 Authority and purpose.
173-26-020 Definitions.
173-26-170 Repealed.
173-26-171 Authority, purpose and effects of guidelines.
173-26-176 General policy goals of the act and guidelines for shorelines of the state.
173-26-180 Repealed.
173-26-181 Special policy goals of the act and guidelines for shorelines of statewide significance.
173-26-186 Governing principles of the guidelines.
173-26-190 Repealed.
173-26-191 Master program contents.
173-26-200 Repealed.
173-26-201 Comprehensive process to prepare or amend shoreline master programs.
173-26-210 Repealed.
173-26-211 Environment designation system.
173-26-220 Repealed.
173-26-221 General master program provisions.
173-26-230 Repealed.
173-26-231 Shoreline modifications.
173-26-240 Repealed.
173-26-241 Shoreline uses.
173-26-250 Repealed.
173-26-251 Shorelines of statewide significance.
173-26-270 Repealed.
173-26-280 Repealed.
173-26-290 Repealed.
173-26-300 Repealed.
173-26-310 Repealed.
173-26-320 Repealed.
173-26-330 Repealed.
173-26-340 Repealed.
173-26-350 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-26-170 Purpose of Part III. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-170, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-180 Applicability of Part III. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-180, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-190 Master program contents. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-190, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-200 Comprehensive process to prepare or amend shoreline master programs. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-200, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-210 Environment designation system. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-210, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-220 General master program provisions. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-220, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-230 Shoreline modifications. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-230, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-240 Shoreline uses. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-240, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-250 Shorelines of statewide significance. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-250, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-270 Purpose of Part IV. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-270, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-280 Applicability of Part IV. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-280, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-290 Master program contents. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-290, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-300 Comprehensive process to prepare or amend shoreline master programs. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-300, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-310 Environment designation system. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-310, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-320 General master program provisions. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-320, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

173-26-330	Shoreline modifications. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-330, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.
173-26-340	Shoreline uses. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-340, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.
173-26-350	Shorelines of statewide significance. [Statutory Authority: RCW 90.58.060 and 90.58.200. 00-24-031 (Order 95-17a), § 173-26-350, filed 11/29/00, effective 12/30/00.] Repealed by 04-01-117 (Order 03-02), filed 12/17/03, effective 1/17/04. Statutory Authority: RCW 90.58.060 and 90.58.200.

WAC 173-26-010 Authority and purpose. The provisions of this chapter implement the requirements of chapter 90.58 RCW, the Shoreline Management Act of 1971. RCW 90.58.200 authorizes the adoption of rules by the department as necessary and appropriate to carry out the provisions of the act. RCW 90.58.080 directs local governments to develop and administer local shoreline master programs for regulation of uses on shorelines of the state. Such local programs should be integrated with other local government systems for administration and enforcement of land use regulations. RCW 36.70A.480 provides that the goals and policies contained in a local shoreline master program shall be considered an element of the local comprehensive plan required by the Growth Management Act. All other portions of the local shoreline master program, including the use regulations, are considered a part of the local development regulations required by the Growth Management Act.

This chapter is drafted to also reflect RCW 90.58.050 which provides that the Shoreline Management Act is intended to be a cooperative program between local government and the state. It is the intent of this chapter to provide minimum procedural requirements as necessary to comply with the statutory requirements while providing latitude for local government to establish procedural systems based on local needs and circumstances.

Pursuant to the Shoreline Management Act, the department must approve master programs prepared by local governments or adopt them by rule consistent with the act. In order to facilitate this process, Part I of this chapter establishes a recordkeeping system for the department and defines the contents of the state master program. Part II sets forth procedures for approving and adopting master programs and amendments thereto. Part III comprises the guidelines pursuant to RCW 90.58.060 and provides guidance for developing the content of shoreline master programs. Part IV - addresses the requirements of the state Ocean Resources Management Act.

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-010, filed 12/17/03, effective 1/17/04; 00-24-031 (Order 95-17a), § 173-26-010, filed 11/29/00, effective 12/30/00. Statutory Authority: RCW 90.58.140(3) and [90.58].200. 96-20-075 (Order 95-17), § 173-26-010, filed 9/30/96, effective 10/31/96.]

WAC 173-26-020 Definitions. In addition to the definitions and concepts set forth in RCW 90.58.030, as amended, and the other implementing rules for the SMA, as used herein, the following words and phrases shall have the following meanings:

(1) "Act" means the Washington State Shoreline Management Act, chapter 90.58 RCW.

(2) "Adoption by rule" means an official action by the department to make a local government shoreline master program effective through rule consistent with the requirements of the Administrative Procedure Act, chapter 34.05 RCW, thereby incorporating the adopted shoreline master program or amendment into the state master program.

(3)(a) "Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation;

(b) "Agricultural products" includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products;

(c) "Agricultural equipment" and "agricultural facilities" includes, but is not limited to:

(i) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

(ii) Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

(iii) Farm residences and associated equipment, lands, and facilities; and

(iv) Roadside stands and on-farm markets for marketing fruit or vegetables; and

(d) "Agricultural land" means those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of the master program, land converted to agricultural use is subject to compliance with the requirements of the master program.

(4) "Amendment" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

(5) "Approval" means an official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the department for review and official action pursuant to this chapter; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program.

(6) "Channel migration zone (CMZ)" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

(7) "Department" means the state department of ecology.

(8) "Development regulations" means the controls placed on development or land uses by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

(9) "Document of record" means the most current shoreline master program officially approved or adopted by rule by the department for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190.

(10) "Drift cell," "drift sector," or "littoral cell" means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.

(11) "Ecological functions" or "shoreline functions" means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-200 (2)(c).

(12) "Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

(13) "Feasible" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

(a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

(b) The action provides a reasonable likelihood of achieving its intended purpose; and

(c) The action does not physically preclude achieving the project's primary intended legal use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

(14) "Fill" means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

(15) "Flood plain" is synonymous with one hundred-year flood plain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

(16) "Geotechnical report" or "geotechnical analysis" means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

(17) "Grading" means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

(18) "Guidelines" means those standards adopted by the department to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.

(19) "Local government" means any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW.

(20) "Marine" means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.

(21) "May" means the action is acceptable, provided it conforms to the provisions of this chapter.

(22) "Must" means a mandate; the action is required.

(23) "Nonwater-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

(24) "Priority habitat" means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- Comparatively high fish or wildlife density;
- Comparatively high fish or wildlife species diversity;
- Fish spawning habitat;
- Important wildlife habitat;

- Important fish or wildlife seasonal range;
- Important fish or wildlife movement corridor;
- Rearing and foraging habitat;
- Important marine mammal haul-out;
- Refugia habitat;
- Limited availability;
- High vulnerability to habitat alteration;
- Unique or dependent species; or
- Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

(25) "Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

(a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

(b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

(c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

(d) Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

(26) "Provisions" means policies, regulations, standards, guideline criteria or environment designations.

(27) "Restore," "restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

(28) "Shall" means a mandate; the action must be done.

(29) "Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

(30) "Shoreline master program" or "master program" means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

(31) "Shoreline modifications" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

(32) "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

(33) "Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

(34) "State master program" means the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by the department.

(35) "Substantially degrade" means to cause significant ecological impact.

(36) "Water-dependent use" means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

(37) "Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

(38) "Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

(39) "Water quality" means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-

related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

(40) "Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

(a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

(b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-020, filed 12/17/03, effective 1/17/04; 00-24-031 (Order 95-17a), § 173-26-020, filed 11/29/00, effective 12/30/00. Statutory Authority: RCW 90.58.140(3) and [90.58].200. 96-20-075 (Order 95-17), § 173-26-020, filed 9/30/96, effective 10/31/96.]

WAC 173-26-170 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-171 Authority, purpose and effects of guidelines. (1) **Authority.** RCW 90.58.090 authorizes and directs the department to adopt "guidelines consistent with RCW 90.58.020, containing the elements specified in RCW 90.58.100" for development of local master programs for regulation of the uses of "shorelines" and "shorelines of statewide significance." RCW 90.58.200 authorizes the department and local governments "to adopt such rules as are necessary and appropriate to carry out the provisions of" the Shoreline Management Act.

(2) **Purpose.** The general purpose of the guidelines is to implement the "cooperative program of shoreline management between local government and the state." Local government shall have the primary responsibility for initiating the planning required by the Shoreline Management Act and "administering the regulatory program consistent with the policy and provisions" of the act. "The department shall act primarily in a supportive and review capacity with an emphasis on providing assistance to local government and insuring compliance with the policy and provisions" of the act. RCW 90.58.050.

In keeping with the relationship between state and local governments prescribed by the act, the guidelines have three specific purposes: To assist local governments in developing master programs; to serve as standards for the regulation of shoreline development in the absence of a master program along with the policy and provisions of the act and, to be used along with the policy of RCW 90.58.020, as criteria for state review of local master programs under RCW 90.58.090.

(3) **Effect.**

(a) The guidelines are guiding parameters, standards, and review criteria for local master programs. The guidelines allow local governments substantial discretion to adopt master programs reflecting local circumstances and other local regulatory and nonregulatory programs related to the policy goals of shoreline management as provided in the policy statements of RCW 90.58.020, WAC 173-26-176 and 173-26-181. The policy of RCW 90.58.020 and these guidelines constitute standards and criteria to be used by the department in reviewing the adoption and amendment of local master programs under RCW 90.58.090 and by the growth management hearings board and shorelines hearings board adjudicating appeals of department decisions to approve, reject, or modify proposed master programs and amendments under RCW 90.58.190.

(b) Under RCW 90.58.340, the guidelines, along with the policy of the act and the master programs, also shall be standards of review and criteria to be used by state agencies, counties, and public and municipal corporations in determining whether the use of lands under their respective jurisdictions adjacent to the shorelines of the state are subject to planning policies consistent with the policies and regulations applicable to shorelines of the state.

(c) The guidelines do not regulate development on shorelines of the state in counties and cities where approved master programs are in effect. In local jurisdictions without approved master programs, development on the shorelines of the state must be consistent with the policy of RCW 90.58.020 and the applicable guidelines under RCW 90.58.140.

(d) As provided in RCW 90.58.060, the department is charged with periodic review and update of these guidelines to address technical and procedural issues that arise as from the review of shoreline master programs (SMPs) as well as compliance of the guidelines with statutory provisions. As a part of this process, ecology will compile information concerning the effectiveness and efficiency of these guidelines and the master programs adopted pursuant thereto with regard to accomplishment of the policies of the Shoreline Management Act and the corresponding principles and specific requirements set forth in these guidelines.

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-171, filed 12/17/03, effective 1/17/04.]

WAC 173-26-176 General policy goals of the act and guidelines for shorelines of the state. (1) The guidelines are designed to assist local governments in developing, adopting, and amending master programs that are consistent with the policy and provisions of the act. Thus, the policy goals of the act are the policy goals of the guidelines. The policy goals of the act are derived from the policy statement of RCW 90.58.020 and the description of the elements to be included in master programs under RCW 90.58.100.

(2) The policy goals for the management of shorelines harbor potential for conflict. The act recognizes that the shorelines and the waters they encompass are "among the most valuable and fragile" of the state's natural resources. They are valuable for economically productive industrial and commercial uses, recreation, navigation, residential amenity, scientific research and education. They are fragile because they depend upon balanced physical, biological, and chemical systems that may be adversely altered by natural forces (earthquakes, volcanic eruptions, landslides, storms, droughts, floods) and human conduct (industrial, commercial, residential, recreation, navigational). Unbridled use of

shorelines ultimately could destroy their utility and value. The prohibition of all use of shorelines also could eliminate their human utility and value. Thus, the policy goals of the act relate both to utilization and protection of the extremely valuable and vulnerable shoreline resources of the state. The act calls for the accommodation of "all reasonable and appropriate uses" consistent with "protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life" and consistent with "public rights of navigation." The act's policy of achieving both shoreline utilization and protection is reflected in the provision that "permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and environment of the shoreline area and the public's use of the water." RCW 90.58.020.

(3) The act's policy of protecting ecological functions, fostering reasonable utilization and maintaining the public right of navigation and corollary uses encompasses the following general policy goals for shorelines of the state. The statement of each policy goal is followed by the statutory language from which the policy goal is derived.

(a) **The utilization of shorelines for economically productive uses that are particularly dependent on shoreline location or use.**

RCW 90.58.020:

"*The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration and preservation*."

"*It is the policy of the state to provide for the management of the shorelines by planning for and fostering all reasonable and appropriate uses*."

"*Uses shall be preferred which are. . .unique to or dependent upon use of the state's shoreline*."

"*Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state*."

RCW 90.58.100:

"*(2) The master programs shall include, when appropriate, the following:*

(a) An economic development element for the location and design of industries, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state;. . .

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shorelines use element.

(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;. . ."

(b) **The utilization of shorelines and the waters they encompass for public access and recreation.**

RCW 90.58.020:

"*The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally*."

"*Alterations of the natural conditions of the shorelines of the state, in those limited instances when authorized, shall be given priority for. . .development that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state*."

RCW 90.58.100:

"*(2) The master programs shall include, when appropriate, the following:*

(b) A public access element making provisions for public access to publicly owned areas;

(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;. . ."

***

"*(4) Master programs will reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational activities for the public and will give appropriate special consideration to same*."

(c) **Protection and restoration of the ecological functions of shoreline natural resources.**

RCW 90.58.020:

"*The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization protection, restoration, and preservation*."

"*This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life. . .*"

"*To this end uses shall be preferred which are consistent with the control of pollution and prevention of damage to the natural environment*."

"*Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area. . .*"

RCW 90.58.100:

"*(2) The master programs shall include, when appropriate, the following:*

(f) A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;. . ."

(d) **Protection of the public right of navigation and corollary uses of waters of the state.**

RCW 90.58.020:

"*This policy contemplates protecting. . .generally public rights of navigation and corollary rights incidental thereto*."

"*Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical,. . .any interference with the public's use of the water*."

(e) **The protection and restoration of buildings and sites having historic, cultural and educational value.**

RCW 90.58.100:

"*(2) The master programs shall include, when appropriate, the following:*

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;. . ."

(f) **Planning for public facilities and utilities correlated with other shorelines uses.**

RCW 90.58.100:

"*(2) The master programs shall include, when appropriate, the following:*

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element."

(g) **Prevention and minimization of flood damages.**

RCW 90.58.100:

"*(2) The master programs shall include, when appropriate, the following:*

(h) An element that gives consideration to the statewide interest in the prevention and minimization of flood damages."

(h) **Recognizing and protecting private property rights.**

RCW 90.58.020:

"*The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership;. . .and, therefore coordinated planning is necessary. . .while, at the same time, recognizing and protecting private rights consistent with the public interest*."

(i) **Preferential accommodation of single-family uses.**

RCW 90.58.020:

"*Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures. . .*"

RCW 90.58.100:

"*(6) Each master program shall contain standards governing the protection of single-family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single-family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single-family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment*."

(j) **Coordination of shoreline management with other relevant local, state, and federal programs.**

RCW 90.58.020:

"*In addition. . .*" the legislature "*. . .finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state*."

"*. . .and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state. . .*"

"*There is, therefor, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines*."

RCW 90.58.100:

"*In preparing the master programs, and any amendments thereto, the department and local governments shall to the extent feasible:*

(a) Utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts;

(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;

(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;

(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;

(e) Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;

(f) Employ, when feasible, all appropriate modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered."

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-176, filed 12/17/03, effective 1/17/04.]

WAC 173-26-180 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-181 Special policy goals of the act and guidelines for shorelines of statewide significance. In accordance with RCW 90.58.020, the "department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

(1) Recognize and protect the statewide interest over local interest;

(2) Preserve the natural character of the shoreline;

(3) Result in long term over short term benefit;

(4) Protect the resources and ecology of the shoreline;

(5) Increase public access to publicly owned areas of the shorelines;

(6) Increase recreational opportunities for the public in the shoreline;

(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary."

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-181, filed 12/17/03, effective 1/17/04.]

WAC 173-26-186 Governing principles of the guidelines. The governing principles listed below are intended to articulate a set of foundational concepts that underpin the guidelines, guide the development of the planning policies and regulatory provisions of master programs, and provide direction to the department in reviewing and approving master programs. These governing principles, along with the policy statement of RCW 90.58.020, other relevant provisions of the act, the regulatory reform policies and provisions of RCW 34.05.328, and the policy goals set forth in WAC 173-26-176 and 173-26-181 should be used to assist in interpretation of any ambiguous provisions and reconciliation of any conflicting provisions of the guidelines.

(1) The guidelines are subordinate to the act. Any inconsistency between the guidelines and the act must be resolved in accordance with the act.

(2) The guidelines are intended to reflect the policy goals of the act, as described in WAC 173-26-176 and 173-26-181.

(3) All relevant policy goals must be addressed in the planning policies of master programs.

(4) The planning policies of master programs (as distinguished from the development regulations of master programs) may be achieved by a number of means, only one of which is the regulation of development. Other means, as authorized by RCW 90.58.240, include, but are not limited to: The acquisition of lands and easements within shorelines of the state by purchase, lease, or gift, either alone or in concert with other local governments; and accepting grants, contributions, and appropriations from any public or private agency or individual. Additional other means may include, but are not limited to, public facility and park planning, watershed planning, voluntary salmon recovery projects and incentive programs.

(5) The policy goals of the act, implemented by the planning policies of master programs, may not be achievable by development regulation alone. Planning policies should be pursued through the regulation of development of private property only to an extent that is consistent with all relevant constitutional and other legal limitations (where applicable, statutory limitations such as those contained in chapter 82.02 RCW and RCW 43.21C.060) on the regulation of private property. Local government should use a process designed to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. A process established for this purpose, related to the constitutional takings limitation, is set forth in a publication entitled, "*State of Washington, Attorney General's Recommended Process for Evaluation of Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property*," first published in February 1992. The attorney general is required to review and update this process on at least an annual basis to maintain consistency with changes in case law by RCW 36.70A.370.

(6) The territorial jurisdictions of the master program's planning function and regulatory function are legally distinct. The planning function may, and in some circumstances must, look beyond the territorial limits of shorelines of the state. RCW 90.58.340. The regulatory function is limited to the territorial limits of shorelines of the state, RCW 90.58.140(1), as defined in RCW 90.58.030(2).

(7) The planning policies and regulatory provisions of master programs and the comprehensive plans and development regulations, adopted under RCW 36.70A.040 shall be integrated and coordinated in accordance with RCW 90.58.340, 36.70A.480, 34.05.328 (1)(h), and section 1, chapter 347, Laws of 1995.

(8) Through numerous references to and emphasis on the maintenance, protection, restoration, and preservation of "fragile" shoreline "natural resources," "public health," "the land and its vegetation and wildlife," "the waters and their aquatic life," "ecology," and "environment," the act makes protection of the shoreline environment an essential statewide policy goal consistent with the other policy goals of the act. It is recognized that shoreline ecological functions may be impaired not only by shoreline development subject to the substantial development permit requirement of the act but also by past actions, unregulated activities, and development that is exempt from the act's permit requirements. The principle regarding protecting shoreline ecological systems is accomplished by these guidelines in several ways, and in the context of related principles. These include:

(a) Local government is guided in its review and amendment of local master programs so that it uses a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by affected shorelines.

(b) Local master programs shall include policies and regulations designed to achieve no net loss of those ecological functions.

(i) Local master programs shall include regulations and mitigation standards ensuring that each permitted development will not cause a net loss of ecological functions of the shoreline; local government shall design and implement such regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

(ii) Local master programs shall include regulations ensuring that exempt development in the aggregate will not cause a net loss of ecological functions of the shoreline.

(c) For counties and cities containing any shorelines with impaired ecological functions, master programs shall include goals and policies that provide for restoration of such impaired ecological functions. These master program provisions shall identify existing policies and programs that contribute to planned restoration goals and identify any additional policies and programs that local government will implement to achieve its goals. These master program elements regarding restoration should make real and meaningful use of established or funded nonregulatory policies and programs that contribute to restoration of ecological functions, and should appropriately consider the direct or indirect effects of other regulatory or nonregulatory programs under other local, state, and federal laws, as well as any restoration

effects that may flow indirectly from shoreline development regulations and mitigation standards.

(d) Local master programs shall evaluate and consider cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions fostered by the policy goals of the act. To ensure no net loss of ecological functions and protection of other shoreline functions and/or uses, master programs shall contain policies, programs, and regulations that address adverse cumulative impacts and fairly allocate the burden of addressing cumulative impacts among development opportunities. Evaluation of such cumulative impacts should consider:

(i) Current circumstances affecting the shorelines and relevant natural processes;

(ii) Reasonably foreseeable future development and use of the shoreline; and

(iii) Beneficial effects of any established regulatory programs under other local, state, and federal laws.

It is recognized that methods of determining reasonably foreseeable future development may vary according to local circumstances, including demographic and economic characteristics and the nature and extent of local shorelines.

(e) The guidelines are not intended to limit the use of regulatory incentives, voluntary modification of development proposals, and voluntary mitigation measures that are designed to restore as well as protect shoreline ecological functions.

(9) To the extent consistent with the policy and use preference of RCW 90.58.020, this chapter (chapter 173-26 WAC), and these principles, local governments have reasonable discretion to balance the various policy goals of this chapter, in light of other relevant local, state, and federal regulatory and nonregulatory programs, and to modify master programs to reflect changing circumstances.

(10) Local governments, in adopting and amending master programs and the department in its review capacity shall, to the extent feasible, as required by RCW 90.58.100(1):

"*(a) Utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts;*

(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;

(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;

(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;

(e) Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;

(f) Employ, when feasible, all appropriate, modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered."

(11) In reviewing and approving local government actions under RCW 90.58.090, the department shall insure that the state's interest in shorelines is protected, including compliance with the policy and provisions of RCW 90.58.-020.

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-186, filed 12/17/03, effective 1/17/04.]

WAC 173-26-190 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-191 Master program contents. (1) **Master program concepts.** The following concepts are the basis for effective shoreline master programs.

(a) **Master program policies and regulations.** Shoreline master programs are both planning and regulatory tools. Master programs serve a planning function in several ways. First, they balance and integrate the objectives and interests of local citizens. Therefore, the preparation and amending of master programs shall involve active public participation, as called for in WAC 173-26-201(3). Second, they address the full variety of conditions on the shoreline. Third, they consider and, where necessary to achieve the objectives of chapter 90.58 RCW, influence planning and regulatory measures for adjacent land. For jurisdictions planning under chapter 36.70A RCW, the Growth Management Act, the requirements for consistency between shoreline and adjacent land planning are more specific and are described in WAC 173-26-191 (1)(e). Fourth, master programs address conditions and opportunities of specific shoreline segments by classifying the shorelines into "environment designations" as described in WAC 173-26-211.

The results of shoreline planning are summarized in shoreline master program policies that establish broad shoreline management directives. The policies are the basis for regulations that govern use and development along the shoreline. Some master program policies may not be fully attainable by regulatory means due to the constitutional and other legal limitations on the regulation of private property. The policies may be pursued by other means as provided in RCW 90.58.240. Some development requires a shoreline permit prior to construction. A local government evaluates a permit application with respect to the shoreline master program policies and regulations and approves a permit only after determining that the development conforms to them. The regulations apply to all uses and development within shoreline jurisdiction, whether or not a shoreline permit is required, and are implemented through an administrative process established by local government pursuant to RCW 90.58.050 and 90.58.140 and enforcement pursuant to RCW 90.58.210 through 90.58.230.

(b) **Master program elements.** RCW 90.58.100(2) states that the master programs shall, when appropriate, include the following elements:

"*(a) An economic development element for the location and design of industries, industrial projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of shorelines of the state;*

(b) A public access element making provision for public access to publicly owned areas;

(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element;

(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;

(f) A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;

(h) An element that gives consideration to the statewide interest in the prevention and minimization of flood damages; and

(i) Any other element deemed appropriate or necessary to effectuate the policy of this chapter."

The Growth Management Act (chapter 36.70A RCW) also uses the word "element" for discrete components of a comprehensive plan. To avoid confusion, "master program element" refers to the definition in the Shoreline Management Act as cited above. Local jurisdictions are not required to address the master program elements listed in the Shoreline Management Act as discrete sections. The elements may be addressed throughout master program provisions rather than used as a means to organize the master program.

(c) **Shorelines of statewide significance.** The Shoreline Management Act identifies certain shorelines as "shorelines of statewide significance" and raises their status by setting use priorities and requiring "optimum implementation" of the act's policy. WAC 173-26-251 describes methods to provide for the priorities listed in RCW 90.58.020 and to achieve "optimum implementation" as called for in RCW 90.58.090(4).

(d) **Shoreline environment designations.** Shoreline management must address a wide range of physical conditions and development settings along shoreline areas. Effective shoreline management requires that the shoreline master program prescribe different sets of environmental protection measures, allowable use provisions, and development standards for each of these shoreline segments.

The method for local government to account for different shoreline conditions is to assign an environment designation to each distinct shoreline section in its jurisdiction. The environment designation assignments provide the framework for implementing shoreline policies and regulatory measures specific to the environment designation. WAC 173-26-211 presents guidelines for environment designations in greater detail.

(e) **Consistency with comprehensive planning and other development regulations.** Shoreline management is most effective and efficient when accomplished within the context of comprehensive planning. For cities and counties planning under the Growth Management Act, chapter 36.70A RCW requires mutual and internal consistency between the comprehensive plan elements and implementing development regulations (including master programs). The requirement for consistency is amplified in WAC 365-195-500:

"*Each comprehensive plan shall be an internally consistent document and all elements shall be consistent with the future land use map. This means that each part of the plan should be integrated with all other parts and that all should be capable of implementation together. Internal consistency involves at least two aspects:*

(1) Ability of physical aspects of the plan to coexist on the available land.

(2) Ability of the plan to provide that adequate public facilities are available when the impacts of development occur (concurrency).

Each plan should provide mechanisms for ongoing review of its implementation and adjustment of its terms whenever internal conflicts become apparent."

The Growth Management Act also calls for coordination and consistency of comprehensive plans among local jurisdictions. RCW 36.70A.100 states:

"*The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to RCW 36.70A.040 of other counties or cities with which the county or city has, in part, common borders or related regional issues*."

Since master program goals and policies are an element of the local comprehensive plan, the requirement for internal and intergovernmental plan consistency may be satisfied by watershed-wide or regional planning.

Legislative findings provided in section 1, chapter 347, Laws of 1995 (see RCW 36.70A.470 notes) state:

"*The legislature recognizes by this act that the growth management act is a fundamental building block of regulatory reform. The state and local governments have invested considerable resources in an act that should serve as the integrating framework for all other land-use related laws. The growth management act provides the means to effectively combine certainty for development decisions, reasonable environmental protection, long-range planning for cost-effective infrastructure, and orderly growth and development*."

And RCW 36.70A.480(1) (The Growth Management Act) states:

"*For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020 without creating an order of priority among the fourteen goals. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations*."

Furthermore, RCW 36.70A.481 states:

"*Nothing in RCW 36.70A.480 shall be construed to authorize a county or city to adopt regulations applicable to shorelands as defined in RCW 90.58.030 that are inconsistent with the provisions of chapter 90.58 RCW*."

The Shoreline Management Act addresses the issue of consistency in RCW 90.58.340, which states:

"*All state agencies, counties, and public and municipal corporations shall review administrative and management policies, regulations, plans, and ordinances relative to lands under their respective jurisdictions adjacent to the shorelines of the state so as the [to] achieve a use policy on said land consistent with the policy of this chapter, the guidelines, and the master programs for the shorelines of the state. The department may develop recommendations for land use control for such lands. Local governments shall, in developing use regulations for such areas, take into consideration any recommendations developed by the department as well as any other state agencies or units of local government. [1971 ex.s. c 286 § 34.]*"

Pursuant to the statutes cited above, the intent of these guidelines is to assist local governments in preparing and amending master programs that fit within the framework of applicable comprehensive plans, facilitate consistent, efficient review of projects and permits, and effectively implement the Shoreline Management Act. It should be noted the ecology's authority under the Shoreline Management Act is limited to review of shoreline master programs based solely on consistency with the SMA and these guidelines. It is the responsibility of the local government to assure consistency between the master program and other elements of the comprehensive plan and development regulations.

Several sections in these guidelines include methods to achieve the consistency required by both the Shoreline Management Act and the Growth Management Act.

First, WAC 173-26-191 (2)(b) and (c) describe optional methods to integrate master programs and other development regulations and the local comprehensive plan.

Second, WAC 173-26-221 through 173-26-251 translate the broad policy goals in the Shoreline Management Act into more specific policies. They also provide a more defined policy basis on which to frame local shoreline master program provisions and to evaluate the consistency of applicable sections of a local comprehensive plan with the Shoreline Management Act.

Finally, WAC 173-26-211(3) presents specific methods for testing consistency between shoreline environment designations and comprehensive plan land use designations.

(2) **Basic requirements.** This chapter describes the basic components and content required in a master program. A master program must be sufficient and complete to implement the Shoreline Management Act and the provisions of this chapter. A master program shall contain policies and regulations as necessary for reviewers to evaluate proposed shoreline uses and developments for conformance to the Shoreline Management Act. As indicated in WAC 173-26-020, for this chapter: The terms "shall," "must," and "are required" and the imperative voice, mean a mandate; the action is required; the term "should" means that the particular action is required unless there is a demonstrated, sufficient reason, based on a policy of the Shoreline Management Act and this chapter, for not taking the action; and the term "may" indicates that the action is within discretion and authority, provided it satisfies all other provisions in this chapter.

(a) **Master program contents.** Master programs shall include the following contents:

(i) **Master program policies.** Master programs shall provide clear, consistent policies that translate broad statewide policy goals set forth in WAC 173-26-176 and 173-26-181 into local directives. Policies are statements of intent directing or authorizing a course of action or specifying criteria for regulatory and nonregulatory actions by a local government. Master program policies provide a comprehensive foundation for the shoreline master program regulations, which are more specific, standards used to evaluate shoreline development. Master program policies also are to be pursued and provide guidance for public investment and other nonregulatory initiatives to assure consistency with the overall goals of the master program.

Shoreline policies shall be developed through an open comprehensive shoreline planning process. For governments planning under the Growth Management Act, the master program policies are considered a shoreline element of the local comprehensive plan and shall be consistent with the planning goals of RCW 36.70A.020, as well as the act's general and special policy goals set forth in WAC 173-26-176 and 173-26-181.

At a minimum, shoreline master program policies shall:

(A) Be consistent with state shoreline management policy goals and specific policies listed in this chapter and the policies of the Shoreline Management Act;

(B) Address the master program elements of RCW 90.58.100;

(C) Include policies for environment designations as described in WAC 173-26-211. The policies shall be accompanied by a map or physical description of the schematic environment designation boundaries in sufficient detail to compare with comprehensive plan land use designations; and

(D) Be designed and implemented in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

(ii) **Master program regulations.** RCW 90.58.100 states:

"*The master programs provided for in this chapter, when adopted or approved by the department shall constitute use regulations for the various shorelines of the state*."

In order to implement the directives of the Shoreline Management Act, master program regulations shall:

(A) Be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies of this chapter, and local master program policies;

(B) Include environment designation regulations that apply to specific environments consistent with WAC 173-26-210;

(C) Include general regulations, use regulations that address issues of concern in regard to specific uses, and shoreline modification regulations; and

(D) Design and implement regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

(iii) **Administrative provisions.**

(A) **Statement of applicability.** The Shoreline Management Act's provisions are intended to provide for the management of all development and uses within its jurisdiction, whether or not a shoreline permit is required. Many activities

that may not require a substantial development permit, such as clearing vegetation or construction of a residential bulkhead, can, individually or cumulatively, adversely impact adjacent properties and natural resources, including those held in public trust. Local governments have the authority and responsibility to enforce master program regulations on all uses and development in the shoreline area. There has been, historically, some public confusion regarding the Shoreline Management Act's applicability in this regard. Therefore, all master programs shall include the following statement:

"All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act, and this master program."

In addition to the requirements of the SMA, permit review, implementation, and enforcement procedures affecting private property must be conducted in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property. Administrative procedures should include provisions insuring that these requirements and limitations are considered and followed in all such decisions.

While the master program is a comprehensive use regulation applicable to all land and water areas within the jurisdiction described in the act, its effect is generally on future development and changes in land use. Local government may find it necessary to regulate existing uses to avoid severe harm to public health and safety or the environment and in doing so should be cognizant of constitutional and other legal limitations on the regulation of private property. In some circumstances existing uses and properties may become nonconforming with regard to the regulations and master programs should include provisions to address these situations in a manner consistent with achievement of the policy of the act and consistent with constitutional and other legal limitations.

(B) Conditional use and variance provisions.

RCW 90.58.100(5) states:

"*Each master program shall contain provisions to allow for the varying of the application of use regulations of the program, including provisions for permits for conditional uses and variances, to insure that strict implementation of a program will not create unnecessary hardships or thwart the policy enumerated in RCW 90.58.020. Any such varying shall be allowed only if extraordinary circumstances are shown and the public interest suffers no substantial detrimental effect. The concept of this subsection shall be incorporated in the rules adopted by the department relating to the establishment of a permit system as provided in RCW 90.58.140 (3)*."

All master programs shall include standards for reviewing conditional use permits and variances which conform to chapter 173-27 WAC.

(C) **Administrative permit review and enforcement procedures.**

RCW 90.58.140(3) states:

"*The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government*."

Local governments may include administrative, enforcement, and permit review procedures in the master program or the procedures may be defined by a local government ordinance separate from the master program. In either case, these procedures shall conform to the Shoreline Management Act, specifically RCW 90.58.140, 90.58.143, 90.58.210 and 90.58.220 and to chapter 173-27 WAC.

Adopting review and enforcement procedures separate from the master program allows local governments to more expeditiously revise their shoreline permit review procedures and to integrate them with other permit processing activities.

(D) **Documentation of project review actions and changing conditions in shoreline areas.**

Master programs or other local permit review ordinances addressing shoreline project review shall include a mechanism for documenting all project review actions in shoreline areas. Local governments shall also identify a process for periodically evaluating the cumulative effects of authorized development on shoreline conditions. This process could involve a joint effort by local governments, state resource agencies, affected Indian tribes, and other parties.

(b) **Including other documents in a master program by reference.** Shoreline master program provisions sometimes address similar issues as other comprehensive plan elements and development regulations, such as the zoning code and critical area ordinance. For the purposes of completeness and consistency, local governments may include other locally adopted policies and regulations within their master programs. For example, a local government may include its critical area ordinance in the master program to provide for compliance with the requirements of RCW 90.58.090(4), provided the critical area ordinance is also consistent with this chapter. This can ensure that local master programs are consistent with other regulations.

Shoreline master programs may include other policies and regulations by referencing a specific, dated edition. When including referenced regulations within a master program, local governments shall ensure that the public has an opportunity to participate in the formulation of the regulations or in their incorporation into the master program, as called for in WAC 173-26-201 (3)(b)(i). In the approval process the department will review the referenced development regulation sections as part of the master program. A copy of the referenced regulations shall be submitted to the department with the proposed master program or amendment. If the development regulation is amended, the edition referenced within the master program will still be the operative regulation in the master program. Changing the referenced regulations in the master program to the new edition will require a master program amendment.

(c) **Incorporating master program provisions into other plans and regulations.** Local governments may integrate master program policies and regulations into their comprehensive plan policies and implementing development regulations rather than preparing a discrete master program in a single document. Master program provisions that are integrated into such plans and development regulations shall be clearly identified so that the department can review these provisions for approval and evaluate development proposals for compliance. RCW 90.58.120 requires that all adopted regulations, designations, and master programs be available for

public inspection at the department or the applicable county or city. Local governments shall identify all documents which contain master program provisions and which provisions constitute part of the master program. Clear identification of master program provisions is also necessary so that interested persons and entities may be involved in master program preparation and amendment, as called for in RCW 90.58.130.

Local governments integrating all or portions of their master program provisions into other plans and regulations shall submit to the department a listing and copies of all provisions that constitute the master program. The master program shall also be sufficiently complete and defined to provide:

(i) Clear directions to applicants applying for shoreline permits and exemptions; and

(ii) Clear evaluation criteria and standards to the local governments, the department, other agencies, and the public for reviewing permit applications with respect to state and local shoreline management provisions.

(d) **Multijurisdictional master program.** Two or more adjacent local governments are encouraged to jointly prepare master programs. Jointly proposed master programs may offer opportunities to effectively and efficiently manage natural resources, such as drift cells or watersheds, that cross jurisdictional boundaries. Local governments jointly preparing master programs shall provide the opportunity for public participation locally in each jurisdiction, as called for in WAC 173-26-201 (3)(b), and submit the multijurisdictional master program to the department for approval.

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-191, filed 12/17/03, effective 1/17/04.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 173-26-200 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-201 Comprehensive process to prepare or amend shoreline master programs. (1) **Applicability.** This section outlines a comprehensive process to prepare or amend a shoreline master program. Local governments shall incorporate the steps indicated if one or more of the following criteria apply:

(a) The master program amendments being considered represent a significant modification to shoreline management practices within the local jurisdiction, they modify more than one environment designation boundary, or significantly add, change or delete use regulations;

(b) Physical shoreline conditions have changed significantly, such as substantial changes in shoreline use or priority habitat integrity, since the last comprehensive master program amendment;

(c) The master program amendments being considered contain provisions that will affect a substantial portion of the local government's shoreline areas;

(d) There are substantive issues that must be addressed on a comprehensive basis. This may include issues such as salmon recovery, major use conflicts or public access;

(e) The current master program and the comprehensive plan are not mutually consistent;

(f) There has been no previous comprehensive master program amendment since the original master program adoption; or

(g) Monitoring and adaptive management indicate that changes are necessary to avoid loss of ecological functions.

Other revisions that do not meet the above criteria may be made without undertaking this comprehensive process provided that the process conforms to the requirements of WAC 173-26-030 through 173-26-160.

All master program amendments are subject to approval by the department as provided in RCW 90.58.090 (3) and (4).

(2) **Basic concepts.**

(a) **Use of scientific and technical information.** To satisfy the requirements for the use of scientific and technical information in RCW 90.58.100(1), local governments shall incorporate the following two steps into their master program development and amendment process.

First, identify and assemble the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern. The context, scope, magnitude, significance, and potential limitations of the scientific information should be considered. At a minimum, make use of and, where applicable, incorporate all available scientific information, aerial photography, inventory data, technical assistance materials, manuals and services from reliable sources of science. Local governments should also contact relevant state agencies, universities, affected Indian tribes, port districts and private parties for available information. While adequate scientific information and methodology necessary for development of a master program should be available, if any person, including local government, chooses to initiate scientific research with the expectation that it will be used as a basis for master program provisions, that research shall use accepted scientific methods, research procedures and review protocols. Local governments are encouraged to work interactively with neighboring jurisdictions, state resource agencies, affected Indian tribes, and other local government entities such as port districts to address technical issues beyond the scope of existing information resources or locally initiated research.

Local governments should consult the technical assistance materials produced by the department. When relevant information is available and unless there is more current or specific information available, those technical assistance materials shall constitute an element of scientific and technical information as defined in these guidelines and the use of which is required by the act.

Second, base master program provisions on an analysis incorporating the most current, accurate, and complete scientific or technical information available. Local governments should be prepared to identify the following:

(i) Scientific information and management recommendations on which the master program provisions are based;

(ii) Assumptions made concerning, and data gaps in, the scientific information; and

(iii) Risks to ecological functions associated with master program provisions. Address potential risks as described in WAC 173-26-201 (3)(d).

The requirement to use scientific and technical information in these guidelines does not limit a local jurisdiction's authority to solicit and incorporate information, experience,

and anecdotal evidence provided by interested parties as part of the master program amendment process. Such information should be solicited through the public participation process described in WAC 173-26-201 (3)(b). Where information collected by or provided to local governments conflicts or is inconsistent, the local government shall base master program provisions on a reasoned, objective evaluation of the relative merits of the conflicting data.

(b) **Adaptation of policies and regulations.** Effective shoreline management requires the evaluation of changing conditions and the modification of policies and regulations to address identified trends and new information. Local governments should monitor actions taken to implement the master program and shoreline conditions to facilitate appropriate updates of master program provisions to improve shoreline management over time. In reviewing proposals to amend master programs, the department shall evaluate whether the change promotes achievement of the policies of the master program and the act. As provided in WAC 173-26-171 (3)(d), ecology will periodically review these guidelines, based in part on information provided by local government, and through that process local government will receive additional guidance on significant shoreline management issues that may require amendments to master programs.

(c) **Protection of ecological functions of the shorelines.** This chapter implements the act's policy on protection of shoreline natural resources through protection and restoration of ecological functions necessary to sustain these natural resources. The concept of ecological functions recognizes that any ecological system is composed of a wide variety of interacting physical, chemical and biological components, that are interdependent in varying degrees and scales, and that produce the landscape and habitats as they exist at any time. Ecological functions are the work performed or role played individually or collectively within ecosystems by these components.

As established in WAC 173-26-186(8), these guidelines are designed to assure, at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources and to plan for restoration of ecological functions where they have been impaired. Managing shorelines for protection of their natural resources depends on sustaining the functions provided by:

• Ecosystem-wide processes such as those associated with the flow and movement of water, sediment and organic materials; the presence and movement of fish and wildlife and the maintenance of water quality.

• Individual components and localized processes such as those associated with shoreline vegetation, soils, water movement through the soil and across the land surface and the composition and configuration of the beds and banks of water bodies.

The loss or degradation of the functions associated with ecosystem-wide processes, individual components and localized processes can significantly impact shoreline natural resources and may also adversely impact human health and safety. Shoreline master programs shall address ecological functions associated with applicable ecosystem-wide processes, individual components and localized processes identified in the ecological systems analysis described in WAC 173-26-201 (3)(d)(i).

Nearly all shoreline areas, even substantially developed or degraded areas, retain important ecological functions. For example, an intensely developed harbor area may also serve as a fish migration corridor and feeding area critical to species survival. Also, ecosystems are interconnected. For example, the life cycle of anadromous fish depends upon the viability of freshwater, marine, and terrestrial shoreline ecosystems, and many wildlife species associated with the shoreline depend on the health of both terrestrial and aquatic environments. Therefore, the policies for protecting and restoring ecological functions generally apply to all shoreline areas, not just those that remain relatively unaltered.

Master programs shall contain policies and regulations that assure, at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources. To achieve this standard while accommodating appropriate and necessary shoreline uses and development, master programs should establish and apply:

• Environment designations with appropriate use and development standards; and

• Provisions to address the impacts of specific common shoreline uses, development activities and modification actions; and

• Provisions for the protection of critical areas within the shoreline; and

• Provisions for mitigation measures and methods to address unanticipated impacts.

When based on the inventory and analysis requirements and completed consistent with the specific provisions of these guidelines, the master program should ensure that development will be protective of ecological functions necessary to sustain existing shoreline natural resources and meet the standard. The concept of "net" as used herein, recognizes that any development has potential or actual, short-term or long-term impacts and that through application of appropriate development standards and employment of mitigation measures in accordance with the mitigation sequence, those impacts will be addressed in a manner necessary to assure that the end result will not diminish the shoreline resources and values as they currently exist. Where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, master program provisions shall, to the greatest extent feasible, protect existing ecological functions and avoid new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions.

Master programs shall also include policies that promote restoration of ecological functions, as provided in WAC 173-26-201 (2)(f), where such functions are found to have been impaired based on analysis described in WAC 173-26-201 (3)(d)(i). It is intended that local government, through the master program, along with other regulatory and nonregulatory programs, contribute to restoration by planning for and fostering restoration and that such restoration occur through a combination of public and private programs and actions. Local government should identify restoration opportunities through the shoreline inventory process and authorize, coordinate and facilitate appropriate publicly and privately initiated restoration projects within their master programs. The goal of this effort is master programs which include planning elements that, when implemented, serve to improve the over-

all condition of habitat and resources within the shoreline area of each city and county.

(d) **Preferred uses.** As summarized in WAC 173-26-176, the act establishes policy that preference be given to uses that are unique to or dependent upon a shoreline location. Consistent with this policy, these guidelines use the terms "water-dependent," "water-related," and "water-enjoyment," as defined in WAC 173-26-020, when discussing appropriate uses for various shoreline areas.

Shoreline areas, being a limited ecological and economic resource, are the setting for competing uses and ecological protection and restoration activities. Consistent with RCW 90.58.020 and WAC 173-26-171 through 173-26-186, local governments shall, when determining allowable uses and resolving use conflicts on shorelines within their jurisdiction, apply the following preferences and priorities in the order listed below, starting with (d)(i) of this subsection. For shorelines of statewide significance, also apply the preferences as indicated in WAC 173-26-251(2).

(i) Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.

(ii) Reserve shoreline areas for water-dependent and associated water-related uses. Harbor areas, established pursuant to Article XV of the state Constitution, and other areas that have reasonable commercial navigational accessibility and necessary support facilities such as transportation and utilities should be reserved for water-dependent and water-related uses that are associated with commercial navigation unless the local governments can demonstrate that adequate shoreline is reserved for future water-dependent and water-related uses and unless protection of the existing natural resource values of such areas preclude such uses. Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

(iii) Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.

(iv) Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

(v) Limit nonwater-oriented uses to those locations where the above described uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

Evaluation pursuant to the above criteria, local economic and land use conditions, and policies and regulations that assure protection of shoreline resources, may result in determination that other uses are considered as necessary or appropriate and may be accommodated provided that the preferred uses are reasonably provided for in the jurisdiction.

(e) **Environmental impact mitigation.**

(i) To assure no net loss of shoreline ecological functions, master programs shall include provisions that require proposed individual uses and developments to analyze environmental impacts of the proposal and include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with the master program and other applicable regulations. To the extent Washington's State Environmental Policy Act of 1971 (SEPA), chapter 43.21C RCW, is applicable, the analysis of such environmental impacts shall be conducted consistent with the rules implementing SEPA, which also address environmental impact mitigation in WAC 197-11-660 and define mitigation in WAC 197-11-768. Master programs shall indicate that, where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority, with (e)(i)(A) of this subsection being top priority.

(A) Avoiding the impact altogether by not taking a certain action or parts of an action;

(B) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

(C) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(D) Reducing or eliminating the impact over time by preservation and maintenance operations;

(E) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

(F) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

(ii) In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

Consistent with WAC 173-26-186 (5) and (8), master programs shall also provide direction with regard to mitigation for the impact of the development so that:

(A) Application of the mitigation sequence achieves no net loss of ecological functions for each new development and does not result in required mitigation in excess of that necessary to assure that development will result in no net loss of shoreline ecological functions and not have a significant adverse impact on other shoreline functions fostered by the policy of the act.

(B) When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.

(f) **Shoreline restoration planning.** Consistent with principle WAC 173-26-186 (8)(c), master programs shall include goals, policies and actions for restoration of impaired shoreline ecological functions. These master program provisions should be designed to achieve overall improvements in shoreline ecological functions over time, when compared to the status upon adoption of the master program. The approach to restoration planning may vary significantly among local jurisdictions, depending on:

• The size of the jurisdiction;

• The extent and condition of shorelines in the jurisdiction;

• The availability of grants, volunteer programs or other tools for restoration; and

• The nature of the ecological functions to be addressed by restoration planning.

Master program restoration plans shall consider and address the following subjects:

(i) Identify degraded areas, impaired ecological functions, and sites with potential for ecological restoration;

(ii) Establish overall goals and priorities for restoration of degraded areas and impaired ecological functions;

(iii) Identify existing and ongoing projects and programs that are currently being implemented, or are reasonably assured of being implemented (based on an evaluation of funding likely in the foreseeable future), which are designed to contribute to local restoration goals;

(iv) Identify additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources for those projects and programs;

(v) Identify timelines and benchmarks for implementing restoration projects and programs and achieving local restoration goals;

(vi) Provide for mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals.

(3) **Steps in preparing and amending a master program.**

(a) **Process overview.** This section provides a generalized process to prepare or comprehensively amend a shoreline master program. Local governments may modify the timing of the various steps, integrate the process into other planning activities, add steps to the process, or work jointly with other jurisdictions or regional efforts, provided the provisions of this chapter are met.

The department will provide a shoreline master program amendment checklist to help local governments identify issues to address. The checklist will not create new or additional requirements beyond the provisions of this chapter. The checklist is intended to aid the preparation and review of master program amendments. Local governments shall submit the completed checklist with the proposed master program amendments.

(b) **Participation process.**

(i) **Participation requirements.** Local government shall comply with the provisions of RCW 90.58.130 which states:

"*To insure that all persons and entities having an interest in the guidelines and master programs developed under this chapter are provided with a full opportunity for involvement in both their development and implementation, the department and local governments shall:*

(1) Make reasonable efforts to inform the people of the state about the shoreline management program of this chapter and in the performance of the responsibilities provided in this chapter, shall not only invite but actively encourage participation by all persons and private groups and entities showing an interest in shoreline management programs of this chapter; and

(2) Invite and encourage participation by all agencies of federal, state, and local government, including municipal and public corporations, having interests or responsibilities relating to the shorelines of the state. State and local agencies are directed to participate fully to insure that their interests are fully considered by the department and local governments."

Additionally, the provisions of WAC 173-26-100 apply and include provisions to assure proper public participation and, for local governments planning under the Growth Management Act, the provisions of RCW 36.70A.140 also apply.

At a minimum, all local governments shall be prepared to describe and document their methods to ensure that all interested parties have a meaningful opportunity to participate.

(ii) **Communication with state agencies.** Before undertaking substantial work, local governments shall notify applicable state agencies to identify state interests, relevant regional and statewide efforts, available information, and methods for coordination and input. Contact the department for a list of applicable agencies to be notified.

(iii) **Communication with affected Indian tribes.** Prior to undertaking substantial work, local governments shall notify affected Indian tribes to identify tribal interests, relevant tribal efforts, available information and methods for coordination and input. Contact the individual tribes or coordinating bodies such as the Northwest Indian Fisheries Commission, for a list of affected Indian tribes to be notified.

(c) **Inventory shoreline conditions.** Gather and incorporate all pertinent and available information, existing inventory data and materials from state agencies, affected Indian tribes, watershed management planning, port districts and other appropriate sources. Ensure that, whenever possible, inventory methods and protocols are consistent with those of neighboring jurisdictions and state efforts. The department will provide, to the extent possible, services and resources for inventory work. Contact the department to determine information sources and other relevant efforts. Map inventory information at an appropriate scale.

Local governments shall be prepared to demonstrate how the inventory information was used in preparing their local master program amendments.

Collection of additional inventory information is encouraged and should be coordinated with other watershed, regional, or statewide inventory and planning efforts in order to ensure consistent methods and data protocol as well as effective use of fiscal and human resources. Local governments should be prepared to demonstrate that they have coordinated with applicable interjurisdictional shoreline inventory and planning programs where they exist. Two or more local governments are encouraged to jointly conduct an inventory in order to increase the efficiency of data gathering and comprehensiveness of inventory information. Data from interjurisdictional, watershed, or regional inventories may be substituted for an inventory conducted by an individual jurisdiction, provided it meets the requirements of this section.

Local government shall, at a minimum, and to the extent such information is relevant and reasonably available, collect the following information:

(i) Shoreline and adjacent land use patterns and transportation and utility facilities, including the extent of existing structures, impervious surfaces, vegetation and shoreline modifications in shoreline jurisdiction. Special attention should be paid to identification of water-oriented uses and related navigation, transportation and utility facilities.

(ii) Critical areas, including wetlands, aquifer recharge areas, fish and wildlife conservation areas, geologically hazardous areas, and frequently flooded areas. See also WAC 173-26-221.

(iii) Degraded areas and sites with potential for ecological restoration.

(iv) Areas of special interest, such as priority habitats, developing or redeveloping harbors and waterfronts, previously identified toxic or hazardous material clean-up sites, dredged material disposal sites, or eroding shorelines, to be addressed through new master program provisions.

(v) Conditions and regulations in shoreland and adjacent areas that affect shorelines, such as surface water management and land use regulations. This information may be useful in achieving mutual consistency between the master program and other development regulations.

(vi) Existing and potential shoreline public access sites, including public rights of way and utility corridors.

(vii) General location of channel migration zones, and flood plains.

(viii) Gaps in existing information. During the initial inventory, local governments should identify what additional information may be necessary for more effective shoreline management.

(ix) If the shoreline is rapidly developing or subject to substantial human changes such as clearing and grading, past and current records or historical aerial photographs may be necessary to identify cumulative impacts, such as bulkhead construction, intrusive development on priority habitats, and conversion of harbor areas to nonwater-oriented uses.

(x) If archaeological or historic resources have been identified in shoreline jurisdiction, consult with the state historic preservation office and local affected Indian tribes regarding existing archaeological and historical information.

(d) **Analyze shoreline issues of concern.** Before establishing specific master program provisions, local governments shall analyze the information gathered in (c) of this subsection and as necessary to ensure effective shoreline management provisions, address the topics below, where applicable.

(i) **Characterization of functions and ecosystem-wide processes.**

(A) Prepare a characterization of shoreline ecosystems and their associated ecological functions. The characterization consists of three steps:

(I) Identify the ecosystem-wide processes and ecological functions based on the list in (d)(i)(C) of this subsection that apply to the shoreline(s) of the jurisdiction.

(II) Assess the ecosystem-wide processes to determine their relationship to ecological functions present within the jurisdiction and identify which ecological functions are healthy, which have been significantly altered and/or adversely impacted and which functions may have previously existed and are missing based on the values identified in (d)(i)(D) of this subsection; and

(III) Identify specific measures necessary to protect and/or restore the ecological functions and ecosystem-wide processes.

(B) The characterization of shoreline ecological systems may be achieved by using one or more of the approaches below:

(I) If a regional environmental management plan, such as a watershed plan or coastal erosion study, is ongoing or has been completed, then conduct the characterization either within the framework of the regional plan or use the data provided in the regional plan. This methodology is intended to contribute to an in-depth and comprehensive assessment and characterization.

(II) If a regional environmental management plan has not been completed, use available scientific and technical information, including flood studies, habitat evaluations and studies, water quality studies, and data and information from environmental impact statements. This characterization of ecosystem-wide processes and the impact upon the functions of specific habitats and human health and safety objectives may be of a generalized nature.

(III) One or more local governments may pursue a characterization which includes a greater scope and complexity than listed in (d)(i)(B)(I) and (II) of this subsection.

(C) Shoreline ecological functions include, but are not limited to:

In rivers and streams and associated flood plains:

Hydrologic: Transport of water and sediment across the natural range of flow variability; attenuating flow energy; developing pools, riffles, gravel bars, recruitment and transport of large woody debris and other organic material.

Shoreline vegetation: Maintaining temperature; removing excessive nutrients and toxic compound, sediment removal and stabilization; attenuation of flow energy; and provision of large woody debris and other organic matter.

Hyporheic functions: Removing excessive nutrients and toxic compound, water storage, support of vegetation, and sediment storage and maintenance of base flows.

Habitat for native aquatic and shoreline-dependent birds, invertebrates, mammals; amphibians; and anadromous and resident native fish: Habitat functions may include, but are not limited to, space or conditions for reproduction; resting, hiding and migration; and food production and delivery.

In lakes:

Hydrologic: Storing water and sediment, attenuating wave energy, removing excessive nutrients and toxic compounds, recruitment of large woody debris and other organic material.

Shoreline vegetation: Maintaining temperature; removing excessive nutrients and toxic compound, attenuating wave energy, sediment removal and stabilization; and providing woody debris and other organic matter.

Hyporheic functions: Removing excessive nutrients and toxic compound, water storage, support of vegetation, and sediment storage and maintenance of base flows.

Habitat for aquatic and shoreline-dependent birds, invertebrates, mammals; amphibians; and anadromous and resident native fish: Habitat functions may include, but are not limited to, space or conditions for reproduction, resting, hiding and migration; and food production and delivery.

In marine waters:

Hydrologic: Transporting and stabilizing sediment, attenuating wave and tidal energy, removing excessive nutrients and toxic compounds; recruitment, redistribution and reduction of woody debris and other organic material.

Vegetation: Maintaining temperature; removing excessive nutrients and toxic compound, attenuating wave energy, sediment removal and stabilization; and providing woody debris and other organic matter.

Habitat for aquatic and shoreline-dependent birds, invertebrates, mammals; amphibians; and anadromous and resident native fish: Habitat functions may include, but are not limited to, space or conditions for reproduction, resting, hiding and migration; and food production and delivery.

Wetlands:

Hydrological: Storing water and sediment, attenuating wave energy, removing excessive nutrients and toxic compounds, recruiting woody debris and other organic material.

Vegetation: Maintaining temperature; removing excessive nutrients and toxic compound, attenuating wave energy, removing and stabilizing sediment; and providing woody debris and other organic matter.

Hyporheic functions: Removing excessive nutrients and toxic compound, storing water and maintaining base flows, storing sediment and support of vegetation.

Habitat for aquatic and shoreline-dependent birds, invertebrates, mammals; amphibians; and anadromous and resident native fish: Habitat functions may include, but are not limited to, space or conditions for reproduction, resting, hiding and migration; and food production and delivery.

(D) The overall condition of habitat and shoreline resources are determined by the following ecosystem-wide processes and ecological functions:

The distribution, diversity, and complexity of the watersheds, marine environments, and landscape-scale features that form the aquatic systems to which species, populations, and communities are uniquely adapted.

The spatial and temporal connectivity within and between watersheds and along marine shorelines. Drainage network connections include flood plains, wetlands, upslope areas, headwater tributaries, and naturally functioning routes to areas critical for fulfilling life history requirements of aquatic and riverine-dependent species.

The shorelines, beaches, banks, marine near-shore habitats, and bottom configurations that provide the physical framework of the aquatic system.

The timing, volume, and distribution of woody debris recruitment in rivers, streams and marine habitat areas.

The water quality necessary to maintain the biological, physical, and chemical integrity of the system and support survival, growth, reproduction, and migration of individuals composing aquatic and riverine communities.

The sediment regime under which aquatic ecosystems evolved. Elements of the sediment regime include the timing, volume, rate, and character of sediment input, storage, and transport.

The range of flow variability sufficient to create and sustain fluvial, aquatic, and wetland habitats, the patterns of sediment, nutrient, and wood routing. The timing, magnitude, duration, and spatial distribution of peak, high, and low flows, and duration of flood plain inundation and water table elevation in meadows and wetlands.

The species composition and structural diversity of plant communities in river and stream areas and wetlands that provides summer and winter thermal regulation, nutrient filtering, appropriate rates of surface erosion, bank erosion, and channel migration and to supply amounts and distributions of woody debris sufficient to sustain physical complexity and stability.

(E) Local governments should use the characterization and analysis called for in this section to prepare master program policies and regulations designed to achieve no net loss of ecological functions necessary to support shoreline resources and to plan for the restoration of the ecosystem-wide processes and individual ecological functions on a comprehensive basis over time.

(ii) **Shoreline use analysis and priorities.** Conduct an analysis to estimate the future demand for shoreline space and potential use conflicts. Characterize current shoreline use patterns and projected trends to ensure appropriate uses consistent with chapter 90.58 RCW and WAC 173-26-201 (2)(d) and 173-26-211(5).

If the jurisdiction includes a designated harbor area or urban waterfront with intensive uses or significant development or redevelopment issues, work with the Washington state department of natural resources and port authorities to ensure consistency with harbor area statutes and regulations, and to address port plans. Identify measures and strategies to encourage appropriate use of these shoreline areas in accordance with the use priorities of chapter 90.58 RCW and WAC 173-26-201 (2)(d) while pursuing opportunities for ecological restoration.

(iii) **Addressing cumulative impacts in developing master programs.** The principle that regulation of development shall achieve no net loss of ecological function requires that master program policies and regulations address the cumulative impacts on shoreline ecological functions that would result from future shoreline development and uses that are reasonably foreseeable from proposed master programs. To comply with the general obligation to assure no net loss of shoreline ecological function, the process of developing the policies and regulations of a shoreline master program requires assessment of how proposed policies and regulations cause and avoid such cumulative impacts.

Evaluating and addressing cumulative impacts shall be consistent with the guiding principle in WAC 173-26-186 (8)(d). An appropriate evaluation of cumulative impacts on ecological functions will consider the factors identified in WAC 173-26-186 (8)(d)(i) through (iii) and the effect on the ecological functions of the shoreline that are caused by unregulated activities, development exempt from permitting, effects such as the incremental impact of residential bulkheads, residential piers, or runoff from newly developed properties. Accordingly, particular attention should be paid to policies and regulations that address platting or subdividing of property, laying of utilities, and mapping of streets that establish a pattern for future development that is to be regulated by the master program.

There are practical limits when evaluating impacts that are prospective and sometimes indirect. Local government should rely on the assistance of state agencies and appropriate parties using evaluation, measurement, estimation, or quantification of impact consistent with the guidance of

RCW 90.58.100(1) and WAC 173-26-201 (2)(a). Policies and regulations of a master program are not inconsistent with these guidelines for failing to address cumulative impacts where a purported impact is not susceptible to being addressed using an approach consistent with RCW 90.58.100 (1).

Complying with the above guidelines is the way that master program policies and regulations should be developed to assure that the commonly occurring and foreseeable cumulative impacts do not cause a net loss of ecological functions of the shoreline. For such commonly occurring and planned development, policies and regulations should be designed without reliance on an individualized cumulative impacts analysis. Local government shall fairly allocate the burden of addressing cumulative impacts.

For development projects that may have unanticipatable or uncommon impacts that cannot be reasonably identified at the time of master program development, the master program policies and regulations should use the permitting or conditional use permitting processes to ensure that all impacts are addressed and that there is no net loss of ecological function of the shoreline after mitigation.

Similarly, local government shall consider and address cumulative impacts on other functions and uses of the shoreline that are consistent with the act. For example, a cumulative impact of allowing development of docks or piers could be interference with navigation on a water body.

(iv) **Shorelines of statewide significance.** If the area contains shorelines of statewide significance, undertake the steps outlined in WAC 173-26-251.

(v) **Public access.** Identify public access needs and opportunities within the jurisdiction and explore actions to enhance shoreline recreation facilities, as described in WAC 173-26-221(4).

(vi) **Enforcement and coordination with other regulatory programs.** Local governments planning under the Growth Management Act shall review their comprehensive plan policies and development regulations to ensure mutual consistency. In order to effectively administer and enforce master program provisions, local governments should also review their current permit review and inspection practices to identify ways to increase efficiency and effectiveness and to ensure consistency.

(vii) **Water quality and quantity.** Identify water quality and quantity issues relevant to master program provisions, including those that affect human health and safety. At a minimum, consult with appropriate federal, state, tribal, and local agencies.

(viii) **Vegetation conservation.** Identify how existing shoreline vegetation provides ecological functions and determine methods to ensure protection of those functions. Identify important ecological functions that have been degraded through loss of vegetation. Consider the amount of vegetated shoreline area necessary to achieve ecological objectives. While there may be less vegetation remaining in urbanized areas than in rural areas, the importance of this vegetation, in terms of the ecological functions it provides, is often as great or even greater than in rural areas due to its scarcity. Identify measures to ensure that new development meets vegetation conservation objectives.

(ix) **Special area planning.** Some shoreline sites or areas require more focused attention than is possible in the overall master program development process due to complex shoreline ecological issues, changing uses, or other unique features or issues. In these circumstances, the local government is encouraged to undertake special area planning. Special area planning also may be used to address: Public access, vegetation conservation, shoreline use compatibility, port development master planning, ecological restoration, or other issues best addressed on a comprehensive basis.

The resultant plans may serve as the basis for facilitating state and local government coordination and permit review. Special area planning shall provide for public and affected Indian tribe participation and compliance with all applicable provisions of the act and WAC 173-26-090 through 173-26-120.

(e) **Establish shoreline policies.** Address all of the elements listed in RCW 90.58.100(2) and all applicable provisions of these guidelines in policies. These policies should be reviewed for mutual consistency with the comprehensive plan policies. If there are shorelines of statewide significance, ensure that the other comprehensive plan policies affecting shoreline jurisdiction are consistent with the objectives of RCW 90.58.020 and 90.58.090(4).

(f) **Establish environment designations.** Establish environment designations and identify permitted uses and development standards for each environment designation.

Based on the inventory in (c) of this subsection and the analysis in (d) of this subsection, assign each shoreline segment an environment designation.

Prepare specific environment designation policies and regulations.

Review the environment designations for mutual consistency with comprehensive plan land use designations as indicated in WAC 173-26-211(3).

In determining the boundaries and classifications of environment designations, adhere to the criteria in WAC 173-26-211(5).

(g) **Prepare other shoreline regulations.** Prepare other shoreline regulations based on the policies and the analyses described in this section as necessary to assure consistency with the guidelines of this chapter. The level of detail of inventory information and planning analysis will be a consideration in setting shoreline regulations. As a general rule, the less known about existing resources, the more protective shoreline master program provisions should be to avoid unanticipated impacts to shoreline resources. If there is a question about the extent or condition of an existing ecological resource, then the master program provisions shall be sufficient to reasonably assure that the resource is protected in a manner consistent with the policies of these guidelines. Local governments may accomplish this by including master program requirements for an on-site inventory at the time of project application and performance standard that assure appropriate protection.

(h) **Submit for review and approval.** Local governments are encouraged to work with department personnel during preparation of the master program and to submit draft master program provisions to the department for informal advice and guidance prior to formal submittal.

Local governments shall submit the completed checklist, as described in WAC 173-26-201 (3)(a), with their master program amendments proposed for adoption. Master program review and formal adoption procedures are described in Parts I and II of this chapter.

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-201, filed 12/17/03, effective 1/17/04.]

WAC 173-26-210 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-211 Environment designation system. (1) **Applicability.** This section applies to the establishment of environment designation boundaries and provisions as described in WAC 173-26-191 (1)(d).

(2) **Basic requirements for environment designation classification and provisions.**

(a) Master programs shall contain a system to classify shoreline areas into specific environment designations. This classification system shall be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section. Each master program's classification system shall be consistent with that described in WAC 173-26-211 (4) and (5) unless the alternative proposed provides equal or better implementation of the act.

(b) An up-to-date and accurate map of the shoreline area delineating the environment designations and their boundaries shall be prepared and maintained in the local government office that administers shoreline permits. If it is not feasible to accurately designate individual parcels on a map, the master program text shall include a clear basis for identifying the boundaries, physical features, explicit criteria, or "common" boundary descriptions to accurately define and distinguish the environments on the ground. The master program should also make it clear that in the event of a mapping error, the jurisdiction will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and chapter 173-22 WAC pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.

(c) To facilitate consistency with land use planning, local governments planning under chapter 36.70A RCW are encouraged to illustrate shoreline designations on the comprehensive plan future land use map as described in WAC 365-195-300 (2)(d).

(d) Pursuant to RCW 90.58.040, the map should clearly illustrate what environment designations apply to all shorelines of the state as defined in RCW 90.58.030 (2)(c) within the local government's jurisdiction in a manner consistent with WAC 173-26-211 (4) and (5).

(e) The map and the master program should note that all areas within shoreline jurisdiction that are not mapped and/or designated are automatically assigned a "rural conservancy" designation, or "urban conservancy" designation if within a municipality or urban growth area, or the comparable environment designation of the applicable master program until the shoreline can be redesignated through a master program amendment.

(f) The following diagram summarizes the components of the environment designation provisions.

Place illustration here.

(3) **Consistency between shoreline environment designations and the local comprehensive plan.** As noted in WAC 173-26-191 (1)(e), RCW 90.58.340 requires that policies for lands adjacent to the shorelines be consistent with the Shoreline Management Act, implementing rules, and the applicable master program. Conversely, local comprehensive plans constitute the underlying framework within which master program provisions should fit. The Growth Management Act, where applicable, designates shoreline master program policies as an element of the comprehensive plan and requires that all elements be internally consistent. Chapter 36.70A RCW also requires development regulations to be consistent with the comprehensive plan.

The following criteria are intended to assist local governments in evaluating the consistency between master program environment designation provisions and the corresponding comprehensive plan elements and development regulations. In order for shoreline designation provisions, local comprehensive plan land use designations, and development regulations to be internally consistent, all three of the conditions below should be met:

(a) **Provisions not precluding one another.** The comprehensive plan provisions and shoreline environment designation provisions should not preclude one another. To meet this criteria, the provisions of both the comprehensive plan and the master program must be able to be met. Further, when considered together and applied to any one piece of property, the master program use policies and regulations and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded.

(b) **Use compatibility.** Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent water-oriented uses, especially water-dependent uses, from being restricted on shoreline areas because of impacts to nearby nonwater-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred uses or development.

(c) **Sufficient infrastructure.** Infrastructure and services provided in the comprehensive plan should be sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. Infrastructure plans must also be mutually consistent with shoreline designations. Where they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.

(4) **General environment designation provisions.**

(a) **Requirements.** For each environment designation, the shoreline master program shall describe:

(i) **Purpose statement.** The statement of purpose shall describe the shoreline management objectives of the designation in a manner that distinguishes it from other designations.

(ii) **Classification criteria.** Clearly stated criteria shall provide the basis for classifying or reclassifying a specific shoreline area with an environment designation.

(iii) **Management policies.** These policies shall be in sufficient detail to assist in the interpretation of the environment designation regulations and, for jurisdictions planning under chapter 36.70A RCW, to evaluate consistency with the local comprehensive plan.

(iv) **Regulations.** Environment-specific regulations shall address the following where necessary to account for different shoreline conditions:

(A) Types of shoreline uses permitted, conditionally permitted, and prohibited;

(B) Building or structure height and bulk limits, setbacks, maximum density or minimum frontage requirements, and site development standards; and

(C) Other topics not covered in general use regulations that are necessary to assure implementation of the purpose of the environment designation.

(b) **The recommended classification system.** The recommended classification system consists of six basic environments: "High-intensity," "shoreline residential," "urban conservancy," "rural conservancy," "natural," and "aquatic" as described in this section and WAC 173-26-211(5). Local governments should assign all shoreline areas an environment designation consistent with the corresponding designation criteria provided for each environment. In delineating environment designations, local government should assure that existing shoreline ecological functions are protected with the proposed pattern and intensity of development. Such designations should also be consistent with policies for restoration of degraded shorelines.

(c) **Alternative systems.**

(i) Local governments may establish a different designation system or may retain their current environment designations, provided it is consistent with the purposes and policies of this section and WAC 173-26-211(5).

(ii) Local governments may use "parallel environments" where appropriate. Parallel environments divide shorelands into different sections generally running parallel to the shoreline or along a physical feature such as a bluff or railroad right of way. Such environments may be useful, for example, to accommodate resource protection near the shoreline and existing development further from the shoreline. Where parallel environments are used, developments and uses allowed in one environment should not be inconsistent with the achieving the purposes of the other.

(5) **The designations.**

(a) **"Natural" environment.**

(i) **Purpose.** The purpose of the "natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, local government should include planning for restoration of degraded shorelines within this environment.

(ii) **Management policies.**

(A) Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.

(B) The following new uses should not be allowed in the "natural" environment:

- Commercial uses.
- Industrial uses.
- Nonwater-oriented recreation.

• Roads, utility corridors, and parking areas that can be located outside of "natural" designated shorelines.

(C) Single-family residential development may be allowed as a conditional use within the "natural" environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.

(D) Commercial forestry may be allowed as a conditional use in the "natural" environment provided it meets the conditions of the State Forest Practices Act and its implementing rules and is conducted in a manner consistent with the purpose of this environment designation.

(E) Agricultural uses of a very low intensity nature may be consistent with the natural environment when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation.

(F) Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact on the area will result.

(G) New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

(iii) **Designation criteria.** A "natural" environment designation should be assigned to shoreline areas if any of the following characteristics apply:

(A) The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;

(B) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or

(C) The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats. Shorelines inside or outside urban growth areas may be designated as "natural."

Ecologically intact shorelines, as used here, means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

The term "ecologically intact shorelines" applies to all shoreline areas meeting the above criteria ranging from larger reaches that may include multiple properties to small areas located within a single property.

Areas with significant existing agriculture lands should not be included in the "natural" designation, except where the existing agricultural operations involve very low intensity uses where there is no significant impact on natural ecological functions, and where the intensity or impacts associated with such agriculture activities is unlikely to expand in a manner inconsistent with the "natural" designation.

(b) **"Rural conservancy" environment.**

(i) **Purpose.** The purpose of the "rural conservancy" environment is to protect ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural flood plain processes, and provide recreational opportunities. Examples of uses that are appropriate in a "rural conservancy" environment include low-impact outdoor recreation uses, timber harvesting on a sustained-yield basis, agricultural uses, aquaculture, low-intensity residential development and other natural resource-based low-intensity uses.

(ii) **Management policies.**

(A) Uses in the "rural conservancy" environment should be limited to those which sustain the shoreline area's physical and biological resources and uses of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.

Except as noted, commercial and industrial uses should not be allowed. Agriculture, commercial forestry, and aquaculture when consistent with provisions of this chapter may be allowed. Low-intensity, water-oriented commercial and industrial uses may be permitted in the limited instances where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the development.

Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline are mitigated.

Mining is a unique use as a result of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use within the rural conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-241 (3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070.

(B) Developments and uses that would substantially degrade or permanently deplete the biological resources of the area should not be allowed.

(C) Construction of new structural shoreline stabilization and flood control works should only be allowed where there is a documented need to protect an existing structure or ecological functions and mitigation is applied, consistent with

WAC 173-26-231. New development should be designed and located to preclude the need for such work.

(D) Residential development standards shall ensure no net loss of shoreline ecological functions and should preserve the existing character of the shoreline consistent with the purpose of the environment. As a general matter, meeting this provision will require density, lot coverage, vegetation conservation and other provisions.

Scientific studies support density or lot coverage limitation standards that assure that development will be limited to a maximum of ten percent total impervious surface area within the lot or parcel, will maintain the existing hydrologic character of the shoreline. However, an alternative standard developed based on scientific information that meets the provisions of this chapter and accomplishes the purpose of the environment designation may be used.

Master programs may allow greater lot coverage to allow development of lots legally created prior to the adoption of a master program prepared under these guidelines. In these instances, master programs shall include measures to assure protection of ecological functions to the extent feasible such as requiring that lot coverage is minimized and vegetation is conserved.

(E) New shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications should be designed and managed consistent with these guidelines to ensure that the natural shoreline functions are protected. Such shoreline modification should not be inconsistent with planning provisions for restoration of shoreline ecological functions.

(iii) **Designation criteria.** Assign a "rural conservancy" environment designation to shoreline areas outside incorporated municipalities and outside urban growth areas, as defined by RCW 36.70A.110, if any of the following characteristics apply:

(A) The shoreline is currently supporting lesser-intensity resource-based uses, such as agriculture, forestry, or recreational uses, or is designated agricultural or forest lands pursuant to RCW 36.70A.170;

(B) The shoreline is currently accommodating residential uses outside urban growth areas and incorporated cities or towns;

(C) The shoreline is supporting human uses but subject to environmental limitations, such as properties that include or are adjacent to steep banks, feeder bluffs, or flood plains or other flood-prone areas;

(D) The shoreline is of high recreational value or with unique historic or cultural resources; or

(E) The shoreline has low-intensity water-dependent uses.

Areas designated in a local comprehensive plan as "rural areas of more intense development," as provided for in chapter 36.70A RCW, may be designated an alternate shoreline environment, provided it is consistent with the objectives of the Growth Management Act and this chapter. "Master planned resorts" as described in RCW 36.70A.360 may be designated an alternate shoreline environment, provided the applicable master program provisions do not allow significant ecological impacts.

Lands that may otherwise qualify for designation as rural conservancy and which are designated as "mineral resource lands" pursuant to RCW 36.70A.170 and WAC 365-190-070 may be assigned a designation within the "rural conservancy" environment that allows mining and associated uses in addition to other uses consistent with the rural conservancy environment.

(c) **"Aquatic" environment.**

(i) **Purpose.** The purpose of the "aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

(ii) **Management policies.**

(A) Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.

(B) The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

(C) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

(D) All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

(E) Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201 (2)(e) as necessary to assure no net loss of ecological functions.

(F) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

(iii) **Designation criteria.** Assign an "aquatic" environment designation to lands waterward of the ordinary high-water mark.

Local governments may designate submerged and intertidal lands with shoreland designations (e.g., "high-intensity" or "rural conservancy") if the management policies and objectives for aquatic areas are met. In this case, the designation system used must provide regulations for managing submerged and intertidal lands that are clear and consistent with the "aquatic" environment management policies in this chapter. Additionally, local governments may assign an "aquatic" environment designation to wetlands.

(d) **"High-intensity" environment.**

(i) **Purpose.** The purpose of the "high-intensity" environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

(ii) **Management policies.**

(A) In regulating uses in the "high-intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for

water-oriented uses or on sites where there is no direct access to the shoreline. Such specific situations should be identified in shoreline use analysis or special area planning, as described in WAC 173-26-200 (3)(d).

If an analysis of water-dependent use needs as described in WAC 173-26-201 (3)(d)(ii) demonstrates the needs of existing and envisioned water-dependent uses for the planning period are met, then provisions allowing for a mix of water-dependent and nonwater-dependent uses may be established. If those shoreline areas also provide ecological functions, apply standards to assure no net loss of those functions.

(B) Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated "high-intensity." However, consideration should be given to the potential for displacement of nonwater-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas.

(C) Policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply in accordance with any relevant state and federal law.

(D) Where feasible, visual and physical public access should be required as provided for in WAC 173-26-221 (4)(d).

(E) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

(iii) **Designation criteria.** Assign a "high-intensity" environment designation to shoreline areas within incorporated municipalities, urban growth areas, and industrial or commercial "rural areas of more intense development," as described by RCW 36.70A.070, if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

(e) **"Urban conservancy" environment.**

(i) **Purpose.** The purpose of the "urban conservancy" environment is to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

(ii) **Management policies.**

(A) Uses that preserve the natural character of the area or promote preservation of open space, flood plain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

(B) Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "urban conservancy" designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

(C) Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

(D) Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

(E) Mining is a unique use as a result of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use within the urban conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-240 (3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070.

(iii) **Designation criteria.** Assign an "urban conservancy" environment designation to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial "rural areas of more intense development" if any of the following characteristics apply:

(A) They are suitable for water-related or water-enjoyment uses;

(B) They are open space, flood plain or other sensitive areas that should not be more intensively developed;

(C) They have potential for ecological restoration;

(D) They retain important ecological functions, even though partially developed; or

(E) They have the potential for development that is compatible with ecological restoration.

Lands that may otherwise qualify for designation as urban conservancy and which are designated as "mineral resource lands" pursuant to RCW 36.70A.170 and WAC 365-190-070 may be assigned a designation within the "urban conservancy" environment that allows mining and associated uses in addition to other uses consistent with the urban conservancy environment.

(f) **"Shoreline residential" environment.**

(i) **Purpose.** The purpose of the "shoreline residential" environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

(ii) **Management policies.**

(A) Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

Local governments may establish two or more different "shoreline residential" environments to accommodate different shoreline densities or conditions, provided both environments adhere to the provisions in this chapter.

(B) Multifamily and multilot residential and recreational developments should provide public access and joint use for community recreational facilities.

(C) Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

(D) Commercial development should be limited to water-oriented uses.

(iii) **Designation criteria.** Assign a "shoreline residential" environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, incorporated municipalities, "rural areas of more intense development," or "master planned resorts," as described in RCW 36.70A.360, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-211, filed 12/17/03, effective 1/17/04.]

WAC 173-26-220 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-221 General master program provisions. The provisions of this section shall be applied either generally to all shoreline areas or to shoreline areas that meet the specified criteria of the provision without regard to environment designation. These provisions address certain elements as required by RCW 90.58.100(2) and implement the principles as established in WAC 173-26-186.

(1) ***Archaeological and historic resources.***

(a) **Applicability.** The following provisions apply to archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC as well as the provisions of this chapter.

(b) **Principles.** Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the office of archaeology and historic preservation.

(c) **Standards.** Local shoreline master programs shall include policies and regulations to protect historic, archaeological, and cultural features and qualities of shorelines and implement the following standards. A local government may reference historic inventories or regulations. Contact the office of archaeology and historic preservation and affected Indian tribes for additional information.

(i) Require that developers and property owners immediately stop work and notify the local government, the office of archaeology and historic preservation and affected Indian tribes if archaeological resources are uncovered during excavation.

(ii) Require that permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes.

(2) ***Critical areas.***

(a) **Applicability.** Pursuant to the provisions of RCW 90.58.090(4) as amended by chapter 321, Laws of 2003 (ESHB 1933), shoreline master programs must provide for management of critical areas designated as such pursuant to RCW 36.70A.170 (1)(d) and required to be protected pursuant to RCW 36.70A.060(2) that are located within the shorelines of the state with policies and regulations that:

(i) Are consistent with the specific provisions of this subsection (2) critical areas and subsection (3) of this section flood hazard reduction, and these guidelines; and

(ii) Provide a level of protection to critical areas within the shoreline area that is at least equal to that provided by the local government's critical area regulations adopted pursuant to the Growth Management Act for comparable areas other than shorelines.

When approved by ecology pursuant to RCW 90.58.090 (4), a local government's SMP becomes regulations for protection of critical areas in the shorelines of the state in the jurisdiction of the adopting local government except as noted in RCW 36.70A.480 (3)(b) and (6).

The provisions of this section and subsection (3) of this section, flood hazard reduction, shall be applied to critical areas within the shorelines of the state. RCW 36.70A.030 defines critical areas as:

"*"Critical areas" include the following areas and ecosystems:*

(a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable waters; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas."

The provisions of WAC 365-190-080, to the extent standards for certain types of critical areas are not provided by this section and subsection (3) of this section flood hazard reduction, and to the extent consistent with these guidelines are also applicable to and provide further definition of critical area categories and management policies.

As provided in RCW 90.58.030 (2)(f)(ii) and 36.70A.-480, as amended by chapter 321, Laws of 2003 (ESHB 1933), any city or county may also include in its master program land necessary for buffers for critical areas, as defined in chapter 36.70A RCW, that occur within shorelines of the state, provided that forest practices regulated under chapter 76.09 RCW, except conversions to nonforest land use, on lands subject to the provision of (f)(ii) of this subsection are not subject to additional regulations. If a local government does not include land necessary for buffers for critical areas that occur within shorelines of the state, as authorized above, then the local jurisdiction shall continue to regulate those critical areas and required buffers pursuant to RCW 36.70A.-060(2).

(b) **Principles.** Local master programs, when addressing critical areas, shall implement the following principles:

(i) Shoreline master programs shall adhere to the standards established in the following sections, unless it is demonstrated through scientific and technical information as provided in RCW 90.58.100(1) and as described in WAC 173-26-201 (2)(a) that an alternative approach provides better resource protection.

(ii) In addressing issues related to critical areas, use scientific and technical information, as described in WAC 173-

26-201 (2)(a). The role of ecology in reviewing master program provisions for critical areas in shorelines of the state will be based on the Shoreline Management Act and these guidelines and a comparison with requirements in currently adopted critical area ordinances for comparable areas to ensure that the provisions are at least equal to the level of protection provided by the currently adopted critical area ordinance.

(iii) In protecting and restoring critical areas within shoreline jurisdiction, integrate the full spectrum of planning and regulatory measures, including the comprehensive plan, interlocal watershed plans, local development regulations, and state, tribal, and federal programs.

(iv) The planning objectives of shoreline management provisions for critical areas shall be the protection of existing ecological functions and ecosystem-wide processes and restoration of degraded ecological functions and ecosystem-wide processes. The regulatory provisions for critical areas shall protect existing ecological functions and ecosystem-wide processes.

(v) Promote human uses and values that are compatible with the other objectives of this section, such as public access and aesthetic values, provided they do not significantly adversely impact ecological functions.

(c) **Standards.** When preparing master program provisions for critical areas, local governments should implement the following standards and the provisions of WAC 365-190-080 and use scientific and technical information, as provided for in WAC 173-26-201 (2)(a).

In reviewing the critical areas segment of a master program, the department of ecology shall first assure consistency with the standards of this section Critical areas (WAC 173-26-221(2)), and with the Flood hazard reduction section (WAC 173-26-221(3)), and shall then assure that the master program also provides protection of comparable critical areas that is at least equal to the protection provided by the local governments adopted and valid critical area regulations in effect at the time of submittal of the SMP.

In conducting the review for equivalency with local regulations, the department shall not further evaluate the adequacy of the local critical area regulations. Incorporation of the adopted and valid critical area regulations in effect at the time of submittal by reference as provided in WAC 173-26-191 (2)(b) shall be deemed to meet the requirement for equivalency. However, a finding of equivalency does not constitute a finding of compliance with the requirements of this section and subsection (3) of this section flood hazard reduction, nor with the guidelines overall.

Note that provisions for frequently flooded areas are included in WAC 173-26-221(3).

(i) **Wetlands.**

(A) **Wetland use regulations.** Local governments should consult the department's technical guidance documents on wetlands.

Regulations shall address the following uses to achieve, at a minimum, no net loss of wetland area and functions, including lost time when the wetland does not perform the function:

• The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;

• The dumping, discharging, or filling with any material, including discharges of storm water and domestic, commercial, or industrial wastewater;

• The draining, flooding, or disturbing of the water level, duration of inundation, or water table;

• The driving of pilings;

• The placing of obstructions;

• The construction, reconstruction, demolition, or expansion of any structure;

• Significant vegetation removal, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules;

• Other uses or development that results in a significant ecological impact to the physical, chemical, or biological characteristics of wetlands; or

• Activities reducing the functions of buffers described in (c)(i)(D) of this subsection.

(B) **Wetland rating or categorization.** Wetlands shall be categorized based on the rarity, irreplaceability, or sensitivity to disturbance of a wetland and the functions the wetland provides. Local governments should either use the Washington state wetland rating system, Eastern or Western Washington version as appropriate, or they should develop their own, regionally specific, scientifically based method for categorizing wetlands. Wetlands should be categorized to reflect differences in wetland quality and function in order to tailor protection standards appropriately. A wetland categorization method is not a substitute for a function assessment method, where detailed information on wetland functions is needed.

(C) **Alterations to wetlands.** Master program provisions addressing alterations to wetlands shall be consistent with the policy of no net loss of wetland area and functions, wetland rating, scientific and technical information, and the mitigation priority sequence defined in WAC 173-26-201 (2)(e).

(D) **Buffers.** Master programs shall contain requirements for buffer zones around wetlands. Buffer requirements shall be adequate to ensure that wetland functions are protected and maintained in the long term. Requirements for buffer zone widths and management shall take into account the ecological functions of the wetland, the characteristics and setting of the buffer, the potential impacts associated with the adjacent land use, and other relevant factors.

(E) **Mitigation.** Master programs shall contain wetland mitigation requirements that are consistent with WAC 173-26-201 (2)(e) and which are based on the wetland rating.

(F) **Compensatory mitigation.** Compensatory mitigation shall be allowed only after mitigation sequencing is applied and higher priority means of mitigation are determined to be infeasible.

Requirements for compensatory mitigation must include provisions for:

(I) Mitigation replacement ratios or a similar method of addressing the following:

• The risk of failure of the compensatory mitigation action;

• The length of time it will take the compensatory mitigation action to adequately replace the impacted wetland functions and values;

• The gain or loss of the type, quality, and quantity of the ecological functions of the compensation wetland as compared with the impacted wetland.

(II) Establishment of performance standards for evaluating the success of compensatory mitigation actions;

(III) Establishment of long-term monitoring and reporting procedures to determine if performance standards are met; and

(IV) Establishment of long-term protection and management of compensatory mitigation sites.

Credits from a certified mitigation bank may be used to compensate for unavoidable impacts.

(ii) **Geologically hazardous areas.** Development in designated geologically hazardous areas shall be regulated in accordance with the following:

(A) Consult minimum guidelines for geologically hazardous areas, WAC 365-190-080(4).

(B) Do not allow new development or the creation of new lots that would cause foreseeable risk from geological conditions to people or improvements during the life of the development.

(C) Do not allow new development that would require structural shoreline stabilization over the life of the development. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result. The stabilization measures shall conform to WAC 173-26-231.

(D) Where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible, and less expensive than the proposed stabilization measure, stabilization structures or measures to protect existing primary residential structures may be allowed in strict conformance with WAC 173-26-231 requirements and then only if no net loss of ecological functions will result.

(iii) **Critical saltwater habitats.**

(A) **Applicability.** Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association. Critical saltwater habitats require a higher level of protection due to the important ecological functions they provide. Ecological functions of marine shorelands can affect the viability of critical saltwater habitats. Therefore, effective protection and restoration of critical saltwater habitats should integrate management of shorelands as well as submerged areas.

(B) **Principles.** Master programs shall include policies and regulations to protect critical saltwater habitats and should implement planning policies and programs to restore such habitats. Planning for critical saltwater habitats shall incorporate the participation of state resource agencies to assure consistency with other legislatively created programs in addition to local and regional government entities with an interest such as port districts. Affected Indian tribes shall also be consulted. Local governments should review relevant comprehensive management plan policies and development regulations for shorelands and adjacent lands to achieve consistency as directed in RCW 90.58.340. Local governments should base management planning on information provided by state resource agencies and affected Indian tribes unless they demonstrate that they possess more accurate and reliable information.

The management planning should include an evaluation of current data and trends regarding the following:

• Available inventory and collection of necessary data regarding physical characteristics of the habitat, including upland conditions, and any information on species population trends;

• Terrestrial and aquatic vegetation;

• The level of human activity in such areas, including the presence of roads and level of recreational types (passive or active recreation may be appropriate for certain areas and habitats);

• Restoration potential;

• Tributaries and small streams flowing into marine waters; • Dock and bulkhead construction, including an inventory of bulkheads serving no protective purpose;

• Conditions and ecological functions in the near-shore area;

• Uses surrounding the critical saltwater habitat areas that may negatively impact those areas, including permanent or occasional upland, beach, or over-water uses; and

• An analysis of what data gaps exist and a strategy for gaining this information.

The management planning should address the following, where applicable:

• Protecting a system of fish and wildlife habitats with connections between larger habitat blocks and open spaces and restoring such habitats and connections where they are degraded;

• Protecting existing and restoring degraded riparian and estuarine ecosystems, especially salt marsh habitats;

• Establishing adequate buffer zones around these areas to separate incompatible uses from the habitat areas;

• Protecting existing and restoring degraded near-shore habitat;

• Protecting existing and restoring degraded or lost salmonid habitat;

• Protecting existing and restoring degraded upland ecological functions important to critical saltwater habitats, including riparian vegetation;

• Improving water quality;

• Protecting existing and restoring degraded sediment inflow and transport regimens; and

• Correcting activities that cause excessive sediment input where human activity has led to mass wasting.

Local governments, in conjunction with state resource agencies and affected Indian tribes, should classify critical saltwater habitats and protect and restore seasonal ranges and habitat elements with which federal-listed and state-listed endangered, threatened, and priority species have a primary association and which, if altered, may reduce the likelihood that a species will maintain its population and reproduce over the long term.

Local governments, in conjunction with state resource agencies and affected Indian tribes, should determine which habitats and species are of local importance.

All public and private tidelands or bedlands suitable for shellfish harvest shall be classified as critical areas. Local governments should consider both commercial and recre-

ational shellfish areas. Local governments should review the Washington department of health classification of commercial and recreational shellfish growing areas to determine the existing condition of these areas. Further consideration should be given to the vulnerability of these areas to contamination or potential for recovery. Shellfish protection districts established pursuant to chapter 90.72 RCW shall be included in the classification of critical shellfish areas. Local governments shall classify kelp and eelgrass beds identified by the department of natural resources' aquatic resources division, the department, and affected Indian tribes as critical saltwater habitats.

Comprehensive saltwater habitat management planning should identify methods for monitoring conditions and adapting management practices to new information.

(C) **Standards.** Docks, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:

• The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;

• Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;

• The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.

• The project is consistent with the state's interest in resource protection and species recovery.

Private, noncommercial docks for individual residential or community use may be authorized provided that:

• Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;

• The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.

Until an inventory of critical saltwater habitat has been done, shoreline master programs shall condition all overwater and near-shore developments in marine and estuarine waters with the requirement for an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory shall be consistent with accepted research methodology. At a minimum, local governments should consult with department technical assistance materials for guidance.

(iv) **Critical freshwater habitats.**

(A) **Applicability.** The following applies to master program provisions affecting critical freshwater habitats, including those portions of streams, rivers, wetlands, and lakes, their associated channel migration zones, and flood plains designated as such.

(B) **Principles.** Many ecological functions of river and stream corridors depend both on continuity and connectivity along the length of the shoreline and on the conditions of the surrounding lands on either side of the river channel. Environmental degradation caused by development such as improper storm water sewer or industrial outfalls, unmanaged clearing and grading, or runoff from buildings and parking lots within the watershed, can degrade ecological functions downstream. Likewise, gradual destruction or loss of the vegetation, alteration of runoff quality and quantity along the corridor resulting from incremental flood plain development can raise water temperatures and alter hydrographic conditions and degrade other ecological functions, thereby making the corridor inhospitable for priority species and susceptible to catastrophic flooding, droughts, landslides and channel changes. These conditions also threaten human health, safety, and property. Long stretches of river and stream shorelines have been significantly altered or degraded in this manner. Therefore, effective management of river and stream corridors depends on:

(I) Planning for protection, and restoration where appropriate, along the entire length of the corridor from river headwaters to the mouth; and

(II) Regulating uses and development within the stream channel, associated channel migration zone, wetlands, and the flood plain, to the extent such areas are in the shoreline jurisdictional area, as necessary to assure no net loss of ecological functions associated with the river or stream corridors, including the associated hyporheic zone, results from new development.

As part of a comprehensive approach to management of critical freshwater habitat and other river and stream values, local governments should integrate master program provisions, including those for shoreline stabilization, fill, vegetation conservation, water quality, flood hazard reduction, and specific uses, to protect human health and safety and to protect and restore the corridor's ecological functions and ecosystem-wide processes.

Applicable master programs shall contain provisions to protect hydrologic connections between water bodies, water courses, and associated wetlands. Restoration planning should include incentives and other means to restore water connections that have been impeded by previous development.

Master program provisions for river and stream corridors should, where appropriate, be based on the information from comprehensive watershed management planning where available.

(C) **Standards.** Master programs shall implement the following standards within shoreline jurisdiction:

(I) Provide for the protection of ecological functions associated with critical freshwater habitat as necessary to assure no net loss.

(II) Where appropriate, integrate protection of critical freshwater habitat, protection with flood hazard reduction and other river and stream management provisions.

(III) Include provisions that facilitate authorization of appropriate restoration projects.

(IV) Provide for the implementation of the principles identified in (c)(iv)(B) of this subsection.

(3) ***Flood hazard reduction*.**

(a) **Applicability.** The following provisions apply to actions taken to reduce flood damage or hazard and to uses, development, and shoreline modifications that may increase flood hazards. Flood hazard reduction measures may consist of nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and storm water management programs, and of structural measures, such as dikes, levees, revetments,

floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program. Additional relevant critical area provisions are in WAC 173-26-221(2).

(b) **Principles.** Flooding of rivers, streams, and other shorelines is a natural process that is affected by factors and land uses occurring throughout the watershed. Past land use practices have disrupted hydrological processes and increased the rate and volume of runoff, thereby exacerbating flood hazards and reducing ecological functions. Flood hazard reduction measures are most effective when integrated into comprehensive strategies that recognize the natural hydrogeological and biological processes of water bodies. Over the long term, the most effective means of flood hazard reduction is to prevent or remove development in flood-prone areas, to manage storm water within the flood plain, and to maintain or restore river and stream system's natural hydrological and geomorphological processes.

Structural flood hazard reduction measures, such as diking, even if effective in reducing inundation in a portion of the watershed, can intensify flooding elsewhere. Moreover, structural flood hazard reduction measures can damage ecological functions crucial to fish and wildlife species, bank stability, and water quality. Therefore, structural flood hazard reduction measures shall be avoided whenever possible. When necessary, they shall be accomplished in a manner that assures no net loss of ecological functions and ecosystem-wide processes.

The dynamic physical processes of rivers, including the movement of water, sediment and wood, cause the river channel in some areas to move laterally, or "migrate," over time. This is a natural process in response to gravity and topography and allows the river to release energy and distribute its sediment load. The area within which a river channel is likely to move over a period of time is referred to as the channel migration zone (CMZ) or the meander belt. Scientific examination as well as experience has demonstrated that interference with this natural process often has unintended consequences for human users of the river and its valley such as increased or changed flood, sedimentation and erosion patterns. It also has adverse effects on fish and wildlife through loss of critical habitat for river and riparian dependent species. Failing to recognize the process often leads to damage to, or loss of, structures and threats to life safety.

Applicable shoreline master programs should include provisions to limit development and shoreline modifications that would result in interference with the process of channel migration that may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with the rivers and streams. (See also (c) of this subsection.)

The channel migration zone should be established to identify those areas with a high probability of being subject to channel movement based on the historic record, geologic character and evidence of past migration. It should also be recognized that past action is not a perfect predictor of the future and that human and natural changes may alter migration patterns. Consideration should be given to such changes that may have occurred and their effect on future migration patterns.

For management purposes, the extent of likely migration along a stream reach can be identified using evidence of active stream channel movement over the past one hundred years. Evidence of active movement can be provided from historic and current aerial photos and maps and may require field analysis of specific channel and valley bottom characteristics in some cases. A time frame of one hundred years was chosen because aerial photos, maps and field evidence can be used to evaluate movement in this time frame.

In some cases, river channels are prevented from normal or historic migration by human-made structures or other shoreline modifications. The definition of channel migration zone indicates that in defining the extent of a CMZ, local governments should take into account the river's characteristics and its surroundings. Unless otherwise demonstrated through scientific and technical information, the following characteristics should be considered when establishing the extent of the CMZ for management purposes:

• Within incorporated municipalities and urban growth areas, areas separated from the active river channel by legally existing artificial channel constraints that limit channel movement should not be considered within the channel migration zone.

• All areas separated from the active channel by a legally existing artificial structure(s) that is likely to restrain channel migration, including transportation facilities, built above or constructed to remain intact through the one hundred-year flood, should not be considered to be in the channel migration zone.

• In areas outside incorporated municipalities and urban growth areas, channel constraints and flood control structures built below the one hundred-year flood elevation do not necessarily restrict channel migration and should not be considered to limit the channel migration zone unless demonstrated otherwise using scientific and technical information.

Master programs shall implement the following principles:

(i) Where feasible, give preference to nonstructural flood hazard reduction measures over structural measures.

(ii) Base shoreline master program flood hazard reduction provisions on applicable watershed management plans, comprehensive flood hazard management plans, and other comprehensive planning efforts, provided those measures are consistent with the Shoreline Management Act and this chapter.

(iii) Consider integrating master program flood hazard reduction provisions with other regulations and programs, including (if applicable):

• Storm water management plans;

• Flood plain regulations, as provided for in chapter 86.16 RCW;

• Critical area ordinances and comprehensive plans, as provided in chapter 36.70A RCW; and

• The National Flood Insurance Program.

(iv) Assure that flood hazard protection measures do not result in a net loss of ecological functions associated with the rivers and streams.

(v) Plan for and facilitate returning river and stream corridors to more natural hydrological conditions. Recognize that seasonal flooding is an essential natural process.

(vi) When evaluating alternate flood control measures, consider the removal or relocation of structures in flood-prone areas.

(vii) Local governments are encouraged to plan for and facilitate removal of artificial restrictions to natural channel migration, restoration of off channel hydrological connections and return river processes to a more natural state where feasible and appropriate.

(c) **Standards.** Master programs shall implement the following standards within shoreline jurisdiction:

(i) Development in flood plains should not significantly or cumulatively increase flood hazard or be inconsistent with a comprehensive flood hazard management plan adopted pursuant to chapter 86.12 RCW, provided the plan has been adopted after 1994 and approved by the department. New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway. The following uses and activities may be appropriate and/or necessary within the channel migration zone or floodway:

• Actions that protect or restore the ecosystem-wide processes or ecological functions.

• Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules.

• Existing and ongoing agricultural practices, provided that no new restrictions to channel movement occur.

• Mining when conducted in a manner consistent with the environment designation and with the provisions of WAC 173-26-241 (3)(h).

• Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected section of watershed or drift cell.

• Repair and maintenance of an existing legal use, provided that such actions do not cause significant ecological impacts or increase flood hazards to other uses.

• Development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

• Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions.

• Development in incorporated municipalities and designated urban growth areas, as defined in chapter 36.70A RCW, where existing structures prevent active channel movement and flooding.

• Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.

(ii) Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with WAC 173-26-221(5).

Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by the department that evaluates cumulative impacts to the watershed system.

(iii) Place new structural flood hazard reduction measures landward of the associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration, or as noted below. Provided that such flood hazard reduction projects be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.

(iv) Require that new structural public flood hazard reduction measures, such as dikes and levees, dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

(v) Require that the removal of gravel for flood management purposes be consistent with an adopted flood hazard reduction plan and with this chapter and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

(4) ***Public access.***

(a) **Applicability.** Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access provisions below apply to all shorelines of the state unless stated otherwise.

(b) **Principles.** Local master programs shall:

(i) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.

(ii) Protect the rights of navigation and space necessary for water-dependent uses.

(iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.

(iv) Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

(c) **Planning process to address public access.** Local governments should plan for an integrated shoreline area public access system that identifies specific public needs and opportunities to provide public access. Such a system can

often be more effective and economical than applying uniform public access requirements to all development. This planning should be integrated with other relevant comprehensive plan elements, especially transportation and recreation. The planning process shall also comply with all relevant constitutional and other legal limitations that protect private property rights.

Where a port district or other public entity has incorporated public access planning into its master plan through an open public process, that plan may serve as a portion of the local government's public access planning, provided it meets the provisions of this chapter. The planning may also justify more flexible off-site or special area public access provisions in the master program. Public participation requirements in WAC 173-26-201 (3)(b)(i) apply to public access planning.

At a minimum, the public access planning should result in public access requirements for shoreline permits, recommended projects, port master plans, and/or actions to be taken to develop public shoreline access to shorelines on public property. The planning should identify a variety of shoreline access opportunities and circulation for pedestrians (including disabled persons), bicycles, and vehicles between shoreline access points, consistent with other comprehensive plan elements.

(d) **Standards.** Shoreline master programs should implement the following standards:

(i) Based on the public access planning described in (c) of this subsection, establish policies and regulations that protect and enhance both physical and visual public access. The master program shall address public access on public lands. The master program should seek to increase the amount and diversity of public access to the state's shorelines consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.

(ii) Require that shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where public access planning as described in WAC 173-26-221 (4)(c) demonstrates that a more effective public access system can be achieved through alternate means, such as focusing public access at the most desirable locations, local governments may institute master program provisions for public access based on that approach in lieu of uniform site-by-site public access requirements.

(iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access should be required except:

(A) Where the local government provides more effective public access through a public access planning process described in WAC 173-26-221 (4)(c).

(B) Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.

In determining the infeasibility, undesirability, or incompatibility of public access in a given situation, local governments shall consider alternate methods of providing public access, such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.

(C) For individual single-family residences not part of a development planned for more than four parcels.

(iv) Adopt provisions, such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

(v) Assure that public access improvements do not result in a net loss of shoreline ecological functions.

(5) ***Shoreline vegetation conservation.***

(a) **Applicability.** Vegetation conservation includes activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species.

Unless otherwise stated, vegetation conservation does not include those activities covered under the Washington State Forest Practices Act, except for conversion to other uses and those other forest practice activities over which local governments have authority. As with all master program provisions, vegetation conservation provisions apply even to those shoreline uses and developments that are exempt from the requirement to obtain a permit. Like other master program provisions, vegetation conservation standards do not apply retroactively to existing uses and structures, such as existing agricultural practices.

(b) **Principles.** The intent of vegetation conservation is to protect and restore the ecological functions and ecosystem-wide processes performed by vegetation along shorelines. Vegetation conservation should also be undertaken to protect human safety and property, to increase the stability of river banks and coastal bluffs, to reduce the need for structural shoreline stabilization measures, to improve the visual and aesthetic qualities of the shoreline, to protect plant and animal species and their habitats, and to enhance shoreline uses.

Master programs shall include: Planning provisions that address vegetation conservation and restoration, and regulatory provisions that address conservation of vegetation; as necessary to assure no net loss of shoreline ecological functions and ecosystem-wide processes, to avoid adverse impacts to soil hydrology, and to reduce the hazard of slope failures or accelerated erosion.

Local governments should address ecological functions and ecosystem-wide processes provided by vegetation as described in WAC 173-26-201 (3)(d)(i).

Local governments may implement these objectives through a variety of measures, where consistent with Shoreline Management Act policy, including clearing and grading regulations, setback and buffer standards, critical area regulations, conditional use requirements for specific uses or areas, mitigation requirements, incentives and nonregulatory programs.

In establishing vegetation conservation regulations, local governments must use available scientific and technical information, as described in WAC 173-26-201 (2)(a). At a minimum, local governments should consult shoreline management assistance materials provided by the department and *Management Recommendations for Washington's Priority Habitats*, prepared by the Washington state department of fish and wildlife where applicable.

Current scientific evidence indicates that the length, width, and species composition of a shoreline vegetation community contribute substantively to the aquatic ecological functions. Likewise, the biota within the aquatic environment is essential to ecological functions of the adjacent upland vegetation. The ability of vegetated areas to provide critical ecological functions diminishes as the length and width of the vegetated area along shorelines is reduced. When shoreline vegetation is removed, the narrower the area of remaining vegetation, the greater the risk that the functions will not be performed.

In the Pacific Northwest, aquatic environments, as well as their associated upland vegetation and wetlands, provide significant habitat for a myriad of fish and wildlife species. Healthy environments for aquatic species are inseparably linked with the ecological integrity of the surrounding terrestrial ecosystem. For example, a nearly continuous corridor of mature forest characterizes the natural riparian conditions of the Pacific Northwest. Riparian corridors along marine shorelines provide many of the same functions as their freshwater counterparts. The most commonly recognized functions of the shoreline vegetation include, but are not limited to:

• Providing shade necessary to maintain the cool temperatures required by salmonids, spawning forage fish, and other aquatic biota.

• Providing organic inputs critical for aquatic life.

• Providing food in the form of various insects and other benthic macroinvertebrates.

• Stabilizing banks, minimizing erosion, and reducing the occurrence of landslides. The roots of trees and other riparian vegetation provide the bulk of this function.

• Reducing fine sediment input into the aquatic environment through storm water retention and vegetative filtering.

• Filtering and vegetative uptake of nutrients and pollutants from ground water and surface runoff.

• Providing a source of large woody debris into the aquatic system. Large woody debris is the primary structural element that functions as a hydraulic roughness element to moderate flows. Large woody debris also serves a pool-forming function, providing critical salmonid rearing and refuge habitat. Abundant large woody debris increases aquatic diversity and stabilization.

• Regulation of microclimate in the stream-riparian and intertidal corridors.

• Providing critical wildlife habitat, including migration corridors and feeding, watering, rearing, and refugia areas.

Sustaining different individual functions requires different widths, compositions and densities of vegetation. The importance of the different functions, in turn, varies with the type of shoreline setting. For example, in forested shoreline settings, periodic recruitment of fallen trees, especially conifers, into the stream channel is an important attribute, critical to natural stream channel maintenance. Therefore, vegetated areas along streams which once supported or could in the future support mature trees should be wide enough to accomplish this periodic recruitment process.

Woody vegetation normally classed as trees may not be a natural component of plant communities in some environments, such as in arid climates and on coastal dunes. In these instances, the width of a vegetated area necessary to achieve the full suite of vegetation-related shoreline functions may not be related to vegetation height.

Local governments should identify which ecological processes and functions are important to the local aquatic and terrestrial ecology and conserve sufficient vegetation to maintain them. Such vegetation conservation areas are not necessarily intended to be closed to use and development but should provide for management of vegetation in a manner adequate to assure no net loss of shoreline ecological functions.

(c) **Standards.** Master programs shall implement the following requirements in shoreline jurisdiction.

Establish vegetation conservation standards that implement the principles in WAC 173-26-221 (5)(b). Methods to do this may include setback or buffer requirements, clearing and grading standards, regulatory incentives, environment designation standards, or other master program provisions. Selective pruning of trees for safety and view protection may be allowed and the removal of noxious weeds should be authorized.

Additional vegetation conservation standards for specific uses are included in WAC 173-26-241(3).

(6) ***Water quality, storm water, and nonpoint pollution*.**

(a) **Applicability.** The following section applies to all development and uses in shorelines of the state, as defined in WAC 173-26-020, that affect water quality.

(b) **Principles.** Shoreline master programs shall, as stated in RCW 90.58.020, protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and their aquatic life, through implementation of the following principles:

(i) Prevent impacts to water quality and storm water quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.

(ii) Ensure mutual consistency between shoreline management provisions and other regulations that address water quality and storm water quantity, including public health, storm water, and water discharge standards. The regulations that are most protective of ecological functions shall apply.

(c) **Standards.** Shoreline master programs shall include provisions to implement the principles of this section.

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-221, filed 12/17/03, effective 1/17/04.]

WAC 173-26-230 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-231 Shoreline modifications. (1) ***Applicability*.** Local governments are encouraged to prepare master program provisions that distinguish between shoreline modifications and shoreline uses. Shoreline modifications are generally related to construction of a physical element such

as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal. Shoreline modifications usually are undertaken in support of or in preparation for a shoreline use; for example, fill (shoreline modification) required for a cargo terminal (industrial use) or dredging (shoreline modification) to allow for a marina (boating facility use).

The provisions in this section apply to all shoreline modifications within shoreline jurisdiction.

(2) ***General principles applicable to all shoreline modifications.*** Master programs shall implement the following principles:

(a) Allow structural shoreline modifications only where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

(b) Reduce the adverse effects of shoreline modifications and, as much as possible, limit shoreline modifications in number and extent.

(c) Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

(d) Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.

(e) Where applicable, base provisions on scientific and technical information and a comprehensive analysis of drift cells for marine waters or reach conditions for river and stream systems. Contact the department for available drift cell characterizations.

(f) Plan for the enhancement of impaired ecological functions where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.

(g) Avoid and reduce significant ecological impacts according to the mitigation sequence in WAC 173-26-201 (2)(e).

(3) ***Provisions for specific shoreline modifications.***

(a) **Shoreline stabilization.**

(i) **Applicability.** Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods.

Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

(ii) **Principles.** Shorelines are by nature unstable, although in varying degrees. Erosion and accretion are natural processes that provide ecological functions and thereby contribute to sustaining the natural resource and ecology of the shoreline. Human use of the shoreline has typically led to hardening of the shoreline for various reasons including reduction of erosion or providing useful space at the shore or providing access to docks and piers. The impacts of hardening any one property may be minimal but cumulatively the impact of this shoreline modification is significant.

Shoreline hardening typically results in adverse impacts to shoreline ecological functions such as:

• Beach starvation. Sediment supply to nearby beaches is cut off, leading to "starvation" of the beaches for the gravel, sand, and other fine-grained materials that typically constitute a beach.

• Habitat degradation. Vegetation that shades the upper beach or bank is eliminated, thus degrading the value of the shoreline for many ecological functions, including spawning habitat for salmonids and forage fish.

• Sediment impoundment. As a result of shoreline hardening, the sources of sediment on beaches (eroding "feeder" bluffs) are progressively lost and longshore transport is diminished. This leads to lowering of down-drift beaches, the narrowing of the high tide beach, and the coarsening of beach sediment. As beaches become more coarse, less prey for juvenile fish is produced. Sediment starvation may lead to accelerated erosion in down-drift areas.

• Exacerbation of erosion. The hard face of shoreline armoring, particularly concrete bulkheads, reflects wave energy back onto the beach, exacerbating erosion.

• Ground water impacts. Erosion control structures often raise the water table on the landward side, which leads to higher pore pressures in the beach itself. In some cases, this may lead to accelerated erosion of sand-sized material from the beach.

• Hydraulic impacts. Shoreline armoring generally increases the reflectivity of the shoreline and redirects wave energy back onto the beach. This leads to scouring and lowering of the beach, to coarsening of the beach, and to ultimate failure of the structure.

• Loss of shoreline vegetation. Vegetation provides important "softer" erosion control functions. Vegetation is also critical in maintaining ecological functions.

• Loss of large woody debris. Changed hydraulic regimes and the loss of the high tide beach, along with the prevention of natural erosion of vegetated shorelines, lead to the loss of beached organic material. This material can increase biological diversity, can serve as a stabilizing influence on natural shorelines, and is habitat for many aquatic-based organisms, which are, in turn, important prey for larger organisms.

• Restriction of channel movement and creation of side channels. Hardened shorelines along rivers slow the movement of channels, which, in turn, prevents the input of larger woody debris, gravels for spawning, and the creation of side channels important for juvenile salmon rearing, and can result in increased floods and scour.

Additionally, hard structures, especially vertical walls, often create conditions that lead to failure of the structure. In time, the substrate of the beach coarsens and scours down to bedrock or a hard clay. The footings of bulkheads are exposed, leading to undermining and failure. This process is exacerbated when the original cause of the erosion and "need" for the bulkhead was from upland water drainage problems. Failed bulkheads and walls adversely impact

beach aesthetics, may be a safety or navigational hazard, and may adversely impact shoreline ecological functions.

"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include:

- Vegetation enhancement;
- Upland drainage control;
- Biotechnical measures;
- Beach enhancement;
- Anchor trees;
- Gravel placement;
- Rock revetments;
- Gabions;
- Concrete groins;
- Retaining walls and bluff walls;
- Bulkheads; and
- Seawalls.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

Structural shoreline stabilization often results in vegetation removal and damage to near-shore habitat and shoreline corridors. Therefore, master program shoreline stabilization provisions shall also be consistent with WAC 173-26-221(5), vegetation conservation, and where applicable, WAC 173-26-221(2), critical areas.

In order to implement RCW 90.58.100(6) and avoid or mitigate adverse impacts to shoreline ecological functions where shoreline alterations are necessary to protect single-family residences and principal appurtenant structures in danger from active shoreline erosion, master programs should include standards setting forth the circumstances under which alteration of the shoreline is permitted, and for the design and type of protective measures and devices.

(iii) **Standards.** In order to avoid the individual and cumulative net loss of ecological functions attributable to shoreline stabilization, master programs shall implement the above principles and apply the following standards:

(A) New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivision of land must be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur using geotechnical analysis of the site and shoreline characteristics. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.

(B) New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:

(I) To protect existing primary structures:

• New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

• The erosion control structure will not result in a net loss of shoreline ecological functions.

(II) In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:

• The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

• Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

• The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves.

• The erosion control structure will not result in a net loss of shoreline ecological functions.

(III) In support of water-dependent development when all of the conditions below apply:

• The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

• Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

• The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.

• The erosion control structure will not result in a net loss of shoreline ecological functions.

(IV) To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to chapter 70.105D RCW when all of the conditions below apply:

• Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

• The erosion control structure will not result in a net loss of shoreline ecological functions.

(C) An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves.

• The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

• Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

• Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the

existing structure, remove it as part of the replacement measure.

• Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

• For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

(D) Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

(E) When any structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions.

• Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.

• Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access provisions; WAC 173-26-221(4). Where feasible, incorporate ecological restoration and public access improvements into the project.

• Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt master program provisions for a beach management district or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.

(F) For erosion or mass wasting due to upland conditions, see WAC 173-26-221 (2)(c)(ii).

(b) **Piers and docks.** New piers and docks shall be allowed only for water-dependent uses or public access. As used here, a dock associated with a single-family residence is a water-dependent use provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of this section. Pier and dock construction shall be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use. Water-related and water-enjoyment uses may be allowed as part of mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the minimum size requirement needed to meet the water-dependent use is not violated.

New pier or dock construction, excluding docks accessory to single-family residences, should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses. If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier or dock space, and if the plan or analysis is approved by the local government and consistent with these guidelines, it may serve as the necessary justification for pier design, size, and construction. The intent of this provision is to allow ports and other entities the flexibility necessary to provide for existing and future water-dependent uses.

Where new piers or docks are allowed, master programs should contain provisions to require new residential development of two or more dwellings to provide joint use or community dock facilities, when feasible, rather than allow individual docks for each residence.

Piers and docks, including those accessory to single-family residences, shall be designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions, critical areas resources such as eelgrass beds and fish habitats and processes such as currents and littoral drift. See WAC 173-26-221 (2)(c)(iii) and (iv). Master programs should require that structures be made of materials that have been approved by applicable state agencies.

(c) **Fill.** Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.

Fills waterward of the ordinary high-water mark shall be allowed only when necessary to support: Water-dependent use, public access, cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan, disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the department of natural resources, expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible, mitigation action, environmental restoration, beach nourishment or enhancement project. Fills waterward of the ordinary high-water mark for any use except ecological restoration should require a conditional use permit.

(d) **Breakwaters, jetties, groins, and weirs.** Breakwaters, jetties, groins, and weirs located waterward of the ordinary high-water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose. Breakwaters, jetties, groins, weirs, and similar structures should require a

conditional use permit, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams. Breakwaters, jetties, groins, and weirs shall be designed to protect critical areas and shall provide for mitigation according to the sequence defined in WAC 173-26-201 (2)(e).

(e) **Beach and dunes management.** Washington's beaches and their associated dunes lie along the Pacific Ocean coast between Point Grenville and Cape Disappointment, and as shorelines of statewide significance are mandated to be managed from a statewide perspective by the act. Beaches and dunes within shoreline jurisdiction shall be managed to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beaches. Beaches and dunes should also be managed to reduce the hazard to human life and property from natural or human-induced actions associated with these areas.

Shoreline master programs in coastal marine areas shall provide for diverse and appropriate use of beach and dune areas consistent with their ecological, recreational, aesthetic, and economic values, and consistent with the natural limitations of beaches, dunes, and dune vegetation for development. Coastal master programs shall institute development setbacks from the shoreline to prevent impacts to the natural, functional, ecological, and aesthetic qualities of the dune.

"Dune modification" is the removal or addition of material to a dune, the reforming or reconfiguration of a dune, or the removal or addition of vegetation that will alter the dune's shape or sediment migration. Dune modification may be proposed for a number of purposes, including protection of property, flood and storm hazard reduction, erosion prevention, and ecological restoration.

Coastal dune modification shall be allowed only consistent with state and federal flood protection standards and when it will not result in a net loss of shoreline ecological functions or significant adverse impacts to other shoreline resources and values.

Dune modification to protect views of the water shall be allowed only on properties subdivided and developed prior to the adoption of the master program and where the view is completely obstructed for residences or water-enjoyment uses and where it can be demonstrated that the dunes did not obstruct views at the time of original occupancy, and then only in conformance with the above provisions.

(f) **Dredging and dredge material disposal.** Dredging and dredge material disposal shall be done in a manner which avoids or minimizes significant ecological impacts and impacts which cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.

New development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging. Dredging for the purpose of establishing, expanding, or relocating or reconfiguring navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark. The project must be either associated with a MTCA or CERCLA habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project. Master programs should include provisions for uses of suitable dredge material that benefit shoreline resources. Where applicable, master programs should provide for the implementation of adopted regional interagency dredge material management plans or watershed management planning.

Disposal of dredge material on shorelands or wetlands within a river's channel migration zone shall be discouraged. In the limited instances where it is allowed, such disposal shall require a conditional use permit. This provision is not intended to address discharge of dredge material into the flowing current of the river or in deep water within the channel where it does not substantially affect the geohydrologic character of the channel migration zone.

(g) **Shoreline habitat and natural systems enhancement projects.** Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.

Master programs should include provisions fostering habitat and natural system enhancement projects. Such projects may include shoreline modification actions such as modification of vegetation, removal of nonnative or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline. Master program provisions should assure that the projects address legitimate restoration needs and priorities and facilitate implementation of the restoration plan developed pursuant to WAC 173-26-201 (2)(f).

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-231, filed 12/17/03, effective 1/17/04.]

WAC 173-26-240 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-241 Shoreline uses. (1) **Applicability.** The provisions in this section apply to specific common uses and types of development to the extent they occur within shoreline jurisdiction. Master programs should include these, where applicable, and should include specific use provisions for other common uses and types of development in the jurisdiction. All uses and development must be consistent with the provisions of the environment designation in which they are located and the general regulations of the master program.

(2) **General use provisions.**

(a) **Principles.** Shoreline master programs shall implement the following principles:

(i) Establish a system of use regulations and environment designation provisions consistent with WAC 173-26-201 (2)(d) and 173-26-211 that gives preference to those uses that

are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas.

(ii) Ensure that all shoreline master program provisions concerning proposed development of property are established, as necessary, to protect the public's health, safety, and welfare, as well as the land and its vegetation and wildlife, and to protect property rights while implementing the policies of the Shoreline Management Act.

(iii) Reduce use conflicts by including provisions to prohibit or apply special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline. In implementing this provision, preference shall be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.

(iv) Establish use regulations designed to assure no net loss of ecological functions associated with the shoreline.

(b) **Conditional uses.**

(i) Master programs shall define the types of uses and development that require shoreline conditional use permits pursuant to RCW 90.58.100(5). Requirements for a conditional use permit may be used for a variety of purposes, including:

• To effectively address unanticipated uses that are not classified in the master program as described in WAC 173-27-030.

• To address cumulative impacts.

• To provide the opportunity to require specially tailored environmental analysis or design criteria for types of use or development that may otherwise be inconsistent with a specific environment designation within a master program or with the Shoreline Management Act policies.

In these cases, allowing a given use as a conditional use could provide greater flexibility within the master program than if the use were prohibited outright.

(ii) If master programs permit the following types of uses and development, they should require a conditional use permit:

(A) Uses and development that may significantly impair or alter the public's use of the water areas of the state.

(B) Uses and development which, by their intrinsic nature, may have a significant ecological impact on shoreline ecological functions or shoreline resources depending on location, design, and site conditions.

(C) Development in critical saltwater habitats.

(iii) The provisions of this section are minimum requirements and are not intended to limit local government's ability to identify other uses and developments within the master program as conditional uses where necessary or appropriate.

(3) **Standards.** Master programs shall establish a comprehensive program of use regulations for shorelines and shall incorporate provisions for specific uses consistent with the following as necessary to assure consistency with the policy of the act and where relevant within the jurisdiction.

(a) **Agriculture.**

(i) For the purposes of this section, the terms agricultural activities, agricultural products, agricultural equipment and facilities and agricultural land shall have the specific meanings as provided in WAC 173-26-020.

(ii) Master programs shall not require modification of or limit agricultural activities occurring on agricultural lands. In jurisdictions where agricultural activities occur, master programs shall include provisions addressing new agricultural activities on land not meeting the definition of agricultural land, conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities.

(iii) Nothing in this section limits or changes the terms of the current exception to the definition of substantial development. A substantial development permit is required for any agricultural development not specifically exempted by the provisions of RCW 90.58.030 (3)(e)(iv).

(iv) Master programs shall use definitions consistent with the definitions found in WAC 173-26-020(3).

(v) New agricultural activities are activities that meet the definition of agricultural activities but are proposed on land not currently in agricultural use. Master programs shall include provisions for new agricultural activities to assure that:

(A) Specific uses and developments in support of agricultural use are consistent with the environment designation in which the land is located.

(B) Agricultural uses and development in support of agricultural uses, are located and designed to assure no net loss of ecological functions and to not have a significant adverse impact on other shoreline resources and values.

Measures appropriate to meet these requirements include provisions addressing water quality protection, and vegetation conservation, as described in WAC 173-26-220 (5) and (6). Requirements for buffers for agricultural development shall be based on scientific and technical information and management practices adopted by the applicable state agencies necessary to preserve the ecological functions and qualities of the shoreline environment.

(vi) Master programs shall include provisions to assure that development on agricultural land that does not meet the definition of agricultural activities, and the conversion of agricultural land to nonagricultural uses, shall be consistent with the environment designation, and the general and specific use regulations applicable to the proposed use and do not result in a net loss of ecological functions associated with the shoreline.

(b) **Aquaculture.** Aquaculture is the culture or farming of food fish, shellfish, or other aquatic plants and animals. This activity is of statewide interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. Local government should consider local ecological conditions and provide limits and conditions to assure appropriate compatible types of aquaculture for the local conditions as necessary to assure no net loss of ecological functions.

Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind protection, commercial navigation, and, in marine waters, salinity. The technology associated with some forms of present-day aquaculture is still in its formative stages and experi-

mental. Local shoreline master programs should therefore recognize the necessity for some latitude in the development of this use as well as its potential impact on existing uses and natural systems.

Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass and macroalgae, or significantly conflict with navigation and other water-dependent uses. Aquacultural facilities should be designed and located so as not to spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline. Impacts to ecological functions shall be mitigated according to the mitigation sequence described in WAC 173-26-020.

(c) **Boating facilities.** For the purposes of this chapter, "boating facilities" excludes docks serving four or fewer single-family residences. Shoreline master programs shall contain provisions to assure no net loss of ecological functions as a result of development of boating facilities while providing the boating public recreational opportunities on waters of the state.

Where applicable, shoreline master programs should, at a minimum, contain:

(i) Provisions to ensure that boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses.

(ii) Provisions that assure that facilities meet health, safety, and welfare requirements. Master programs may reference other regulations to accomplish this requirement.

(iii) Regulations to avoid, or if that is not possible, to mitigate aesthetic impacts.

(iv) Provisions for public access in new marinas, particularly where water-enjoyment uses are associated with the marina, in accordance with WAC 173-26-221(4).

(v) Regulations to limit the impacts to shoreline resources from boaters living in their vessels (live-aboard).

(vi) Regulations that assure that the development of boating facilities, and associated and accessory uses, will not result in a net loss of shoreline ecological functions or other significant adverse impacts.

(vii) Regulations to protect the rights of navigation.

(viii) Regulations restricting vessels from extended mooring on waters of the state except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

(d) **Commercial development.** Master programs shall first give preference to water-dependent commercial uses over nonwater-dependent commercial uses; and second, give preference to water-related and water-enjoyment commercial uses over nonwater-oriented commercial uses.

The design, layout and operation of certain commercial uses directly affects their classification with regard to whether or not they qualify as water-related or water-enjoyment uses. Master programs shall assure that commercial uses that may be authorized as water-related or water-enjoyment uses are required to incorporate appropriate design and operational elements so that they meet the definition of water-related or water-enjoyment uses.

Master programs should require that public access and ecological restoration be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water-dependent commercial development unless such improvements are demonstrated to be infeasible or inappropriate. Where commercial use is proposed for location on land in public ownership, public access should be required. Refer to WAC 173-26-221(4) for public access provisions.

Master programs should prohibit nonwater-oriented commercial uses on the shoreline unless they meet the following criteria:

(i) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or

(ii) Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

In areas designated for commercial use, nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.

Nonwater-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

Master programs shall assure that commercial development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources and values provided for in RCW 90.58.020 such as navigation, recreation and public access.

(e) **Forest practices.** Local master programs should rely on the Forest Practices Act and rules implementing the act and the *Forest and Fish Report* as adequate management of commercial forest uses within shoreline jurisdiction. However, local governments shall, where applicable, apply this chapter to Class IV-General forest practices where shorelines are being converted or are expected to be converted to nonforest uses.

Forest practice conversions and other Class IV-General forest practices where there is a likelihood of conversion to nonforest uses, shall assure no net loss of shoreline ecological functions and shall maintain the ecological quality of the watershed's hydrologic system. Master programs shall establish provisions to ensure that all such practices are conducted in a manner consistent with the master program environment designation provisions and the provisions of this chapter. Applicable shoreline master programs should contain provisions to ensure that when forest lands are converted to another use, there will be no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources and values provided for in RCW 90.58.020 such as navigation, recreation and public access.

Master programs shall implement the provisions of RCW 90.58.150 regarding selective removal of timber harvest on shorelines of statewide significance. Exceptions to this standard shall be by conditional use permit only.

Lands designated as "forest lands" pursuant to RCW 36.70A.170 shall be designated consistent with either the "natural," "rural conservancy," environment designation.

Where forest practices fall within the applicability of the Forest Practices Act, local governments should consult with

the department of natural resources, other applicable agencies, and local timber owners and operators.

(f) **Industry.** Master programs shall first give preference to water-dependent industrial uses over nonwater-dependent industrial uses; and second, give preference to water-related industrial uses over nonwater-oriented industrial uses.

Regional and statewide needs for water-dependent and water-related industrial facilities should be carefully considered in establishing master program environment designations, use provisions, and space allocations for industrial uses and supporting facilities. Lands designated for industrial development should not include shoreline areas with severe environmental limitations, such as critical areas.

Where industrial development is allowed, master programs shall include provisions that assure that industrial development will be located, designed, or constructed in a manner that assures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.

Master programs should require that industrial development consider incorporating public access as mitigation for impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, as provided in WAC 173-26-221(4).

Where industrial use is proposed for location on land in public ownership, public access should be required. Industrial development and redevelopment should be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated. New nonwater-oriented industrial development should be prohibited on shorelines except when:

(i) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or

(ii) Navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

In areas designated for industrial use, nonwater-oriented industrial uses may be allowed if the site is physically separated from the shoreline by another property or public right of way.

(g) **In-stream structural uses.** "In-stream structure" means a structure placed by humans within a stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

In-stream structures shall provide for the protection and preservation, of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

(h) **Mining.** Mining is the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses. Historically, the most common form of mining in shoreline areas is for sand and gravel because of the geomorphic association of rivers and sand and gravel deposits. Mining in the shoreline generally alters the natural character, resources, and ecology of shorelines of the state and may impact critical shoreline resources and ecological functions of the shoreline. However, in some circumstances, mining may be designed to have benefits for shoreline resources, such as creation of off channel habitat for fish or habitat for wildlife. Activities associated with shoreline mining, such as processing and transportation, also generally have the potential to impact shoreline resources unless the impacts of those associated activities are evaluated and properly managed in accordance with applicable provisions of the master program.

A shoreline master program should accomplish two purposes in addressing mining. First, identify where mining may be an appropriate use of the shoreline, which is addressed in this section and in the environment designation sections above. Second, ensure that when mining or associated activities in the shoreline are authorized, those activities will be properly sited, designed, conducted, and completed so that it will cause no net loss of ecological functions of the shoreline.

(i) Identification of shoreline areas where mining may be designated as appropriate shall:

(A) Be consistent with the environment designation provisions of WAC 173-26-211 and where applicable WAC 173-26-251(2) regarding shorelines of statewide significance; and

(B) Be consistent with local government designation of mineral resource lands with long-term significance as provided for in RCW 36.70A.170 (1)(c), 36.70A.130, and 36.70A.131; and

(C) Be based on a showing that mining is dependent on a shoreline location in the city or county, or portion thereof, which requires evaluation of geologic factors such as the distribution and availability of mineral resources for that jurisdiction, as well as evaluation of need for such mineral resources, economic, transportation, and land use factors. This showing may rely on analysis or studies prepared for purposes of GMA designations, be integrated with any relevant environmental review conducted under SEPA (chapter 43.21C RCW), or otherwise be shown in a manner consistent with RCW 90.58.100(1) and WAC 173-26-201 (2)(a).

(ii) Master programs shall include policies and regulations for mining, when authorized, that accomplish the following:

(A) New mining and associated activities shall be designed and conducted to comply with the regulations of the environment designation and the provisions applicable to critical areas where relevant. Accordingly, meeting the no net loss of ecological function standard shall include avoidance and mitigation of adverse impacts during the course of mining and reclamation. It is appropriate, however, to determine whether there will be no net loss of ecological function based on evaluation of final reclamation required for the site. Preference shall be given to mining proposals that result in the

creation, restoration, or enhancement of habitat for priority species.

(B) Master program provisions and permit requirements for mining should be coordinated with the requirements of chapter 78.44 RCW.

(C) Master programs shall assure that proposed subsequent use of mined property is consistent with the provisions of the environment designation in which the property is located and that reclamation of disturbed shoreline areas provides appropriate ecological functions consistent with the setting.

(D) Mining within the active channel or channels (a location waterward of the ordinary high-water mark) of a river shall not be permitted unless:

(I) Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the river system as a whole; and

(II) The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline.

(III) The determinations required by (h)(ii)(D)(I) and (II) of this subsection shall be made consistent with RCW 90.58.100(1) and WAC 173-26-201 (2)(a). Such evaluation of impacts should be appropriately integrated with relevant environmental review requirements of SEPA (chapter 43.21C RCW) and the SEPA rules (chapter 197-11 WAC).

(IV) In considering renewal, extension or reauthorization of gravel bar and other in-channel mining operations in locations where they have previously been conducted, local government shall require compliance with this subsection (D) to the extent that no such review has previously been conducted. Where there has been prior review, local government shall review previous determinations comparable to the requirements of this section to assure compliance with this subsection (D) under current site conditions.

(V) The provisions of this section do not apply to dredging of authorized navigation channels when conducted in accordance with WAC 173-26-231 (3)(f).

(E) Mining within any channel migration zone that is within Shoreline Management Act jurisdiction shall require a shoreline conditional use permit.

(i) **Recreational development.** Recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public. Master programs should assure that shoreline recreational development is given priority and is primarily related to access to, enjoyment and use of the water and shorelines of the state. Commercial recreational development should be consistent with the provisions for commercial development in (d) of this subsection. Provisions related to public recreational development shall assure that the facilities are located, designed and operated in a manner consistent with the purpose of the environment designation in which they are located and such that no net loss of shoreline ecological functions or ecosystem-wide processes results.

In accordance with RCW 90.58.100(4), master program provisions shall reflect that state-owned shorelines are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public and give appropriate special consideration to the same.

For all jurisdictions planning under the Growth Management Act, master program recreation policies shall be consistent with growth projections and level-of-service standards established by the applicable comprehensive plan.

(j) **Residential development.** Single-family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal. Residential development also includes multifamily development and the creation of new residential lots through land division.

Master programs shall include policies and regulations that assure no net loss of shoreline ecological functions will result from residential development. Such provisions should include specific regulations for setbacks and buffer areas, density, shoreline armoring, vegetation conservation requirements, and, where applicable, on-site sewage system standards for all residential development and uses and applicable to divisions of land in shoreline jurisdiction.

Residential development, including appurtenant structures and uses, should be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. (See RCW 90.58.100(6).)

New over-water residences, including floating homes, are not a preferred use and should be prohibited. It is recognized that certain existing communities of floating and/or over-water homes exist and should be reasonably accommodated to allow improvements associated with life safety matters and property rights to be addressed provided that any expansion of existing communities is the minimum necessary to assure consistency with constitutional and other legal limitations that protect private property.

New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter.

Master programs shall include standards for the creation of new residential lots through land division that accomplish the following:

(i) Plats and subdivisions must be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.

(ii) Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

(iii) Implement the provisions of WAC 173-26-211 and 173-26-221.

(k) **Transportation and parking.** Master programs shall include policies and regulations to provide safe, reasonable, and adequate circulation systems to, and through or

over shorelines where necessary and otherwise consistent with these guidelines.

Transportation and parking plans and projects shall be consistent with the master program public access policies, public access plan, and environmental protection provisions.

Circulation system planning shall include systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the master program.

Plan, locate, and design proposed transportation and parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses. Where other options are available and feasible, new roads or road expansions should not be built within shoreline jurisdiction.

Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use. Shoreline master programs shall include policies and regulations to minimize the environmental and visual impacts of parking facilities.

(l) **Utilities.** These provisions apply to services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, and the like. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence, are "accessory utilities" and shall be considered a part of the primary use.

Master programs shall include provisions to assure that:

All utility facilities are designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities, that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions.

Utilities should be located in existing rights of way and corridors whenever possible.

Development of pipelines and cables on tidelands, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which disrupt shoreline ecological functions should be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-241, filed 12/17/03, effective 1/17/04.]

WAC 173-26-250 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-251 Shorelines of statewide significance. (1) ***Applicability.*** The following section applies to local governments preparing master programs that include shorelines of statewide significance as defined in RCW 90.58.030.

(2) ***Principles.*** Chapter 90.58 RCW raises the status of shorelines of statewide significance in two ways. First, the Shoreline Management Act sets specific preferences for uses of shorelines of statewide significance. RCW 90.58.020 states:

"*The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:*

(1) Recognize and protect the statewide interest over local interest;

(2) Preserve the natural character of the shoreline;

(3) Result in long term over short term benefit;

(4) Protect the resources and ecology of the shoreline;

(5) Increase public access to publicly owned areas of the shorelines;

(6) Increase recreational opportunities for the public in the shoreline;

(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary."

Second, the Shoreline Management Act calls for a higher level of effort in implementing its objectives on shorelines of statewide significance. RCW 90.58.090(5) states:

"*The department shall approve those segments of the master program relating to shorelines of statewide significance only after determining the program provides the optimum implementation of the policy of this chapter to satisfy the statewide interest.*"

Optimum implementation involves special emphasis on statewide objectives and consultation with state agencies. The state's interests may vary, depending upon the geographic region, type of shoreline, and local conditions. Optimum implementation may involve ensuring that other comprehensive planning policies and regulations support Shoreline Management Act objectives.

Because shoreline ecological resources are linked to other environments, implementation of ecological objectives requires effective management of whole ecosystems. Optimum implementation places a greater imperative on identifying, understanding, and managing ecosystem-wide processes and ecological functions that sustain resources of statewide importance.

(3) ***Master program provisions for shorelines of statewide significance.*** Because shorelines of statewide significance are major resources from which all people of the state derive benefit, local governments that are preparing master program provisions for shorelines of statewide significance shall implement the following:

(a) **Statewide interest.** To recognize and protect statewide interest over local interest, consult with applicable state agencies, affected Indian tribes, and statewide interest groups and consider their recommendations in preparing shoreline master program provisions. Recognize and take into account

state agencies' policies, programs, and recommendations in developing use regulations. For example, if an anadromous fish species is affected, the Washington state departments of fish and wildlife and ecology and the governor's salmon recovery office, as well as affected Indian tribes, should, at a minimum, be consulted.

(b) **Preserving resources for future generations.** Prepare master program provisions on the basis of preserving the shorelines for future generations. For example, actions that would convert resources into irreversible uses or detrimentally alter natural conditions characteristic of shorelines of statewide significance should be severely limited. Where natural resources of statewide importance are being diminished over time, master programs shall include provisions to contribute to the restoration of those resources.

(c) **Priority uses.** Establish shoreline environment designation policies, boundaries, and use provisions that give preference to those uses described in RCW 90.58.020 (1) through (7). More specifically:

(i) Identify the extent and importance of ecological resources of statewide importance and potential impacts to those resources, both inside and outside the local government's geographic jurisdiction.

(ii) Preserve sufficient shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide importance, such as commercial shellfish beds and navigable harbors. Base projections on statewide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes, and state agencies.

(iii) Base public access and recreation requirements on demand projections that take into account the activities of state agencies and the interests of the citizens of the state to visit public shorelines with special scenic qualities or cultural or recreational opportunities.

(d) **Resources of statewide importance.** Establish development standards that:

(i) Ensure the long-term protection of ecological resources of statewide importance, such as anadromous fish habitats, forage fish spawning and rearing areas, shellfish beds, and unique environments. Standards shall consider incremental and cumulative impacts of permitted development and include provisions to insure no net loss of shoreline ecosystems and ecosystem-wide processes.

(ii) Provide for the shoreline needs of water-oriented uses and other shoreline economic resources of statewide importance.

(iii) Provide for the right of the public to use, access, and enjoy public shoreline resources of statewide importance.

(e) **Comprehensive plan consistency.** Assure that other local comprehensive plan provisions are consistent with and support as a high priority the policies for shorelines of statewide significance. Specifically, shoreline master programs should include policies that incorporate the priorities and optimum implementation directives of chapter 90.58 RCW into comprehensive plan provisions and implementing development regulations.

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-251, filed 12/17/03, effective 1/17/04.]

WAC 173-26-270 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-280 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-290 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-300 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-310 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-320 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-330 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-340 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-26-350 Repealed. See Disposition Table at beginning of this chapter.

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UNDERGROUND ARTIFICIAL STORAGE AND RECOVERY

WAC

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173-157-130	What must I include in the project operation plan?
173-157-140	What must I include in the description of the legal framework?
173-157-150	What must I include in the environmental assessment and analysis?
173-157-160	What must I include in the project mitigation plan?
173-157-170	What must I include in the project monitoring plan?
173-157-180	Where do I submit my application for a reservoir and/or secondary permit?
173-157-200	How will the department issue reservoir permits and/or secondary permits for ASR projects?
173-157-210	Can I appeal a decision made by the department on my application?
173-157-220	Can this regulation be reviewed or updated?
173-157-230	Where can I obtain copies of ecology statutes and regulations?

WAC 173-157-010 What is the purpose of this rule? The purpose of this rule is to establish the standards for review of applications for underground artificial storage and recovery projects and, when necessary, to identify options for mitigation of potential adverse impacts to ground water quality or the environment. The rule also outlines the process the department of ecology will use to evaluate applications and

issue permits to artificially store water in underground geological formations and subsequently recover it for beneficial use.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-010, filed 1/15/03, effective 2/15/03.]

WAC 173-157-020 What is the authority for this rule? In 2000, the Washington state legislature passed Engrossed Second Substitute House Bill 2867 (E2SHB 2867), which amended chapters 90.03 and 90.44 RCW. This bill expanded the definition of "reservoir" in RCW 90.03.370 to include "any naturally occurring underground geological formation where water is collected and stored for subsequent use as part of an underground artificial storage and recovery project." Projects of this type are more commonly known as "aquifer storage and recovery" or "ASR" projects. The legislation directed the department to adopt rules establishing the "standards for review and standards for mitigation of adverse impacts for an underground artificial storage and recovery project." The department of ecology promulgates this rule under the authorities provided in chapter 34.05 RCW and RCW 90.03.370.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-020, filed 1/15/03, effective 2/15/03.]

WAC 173-157-030 To whom does this rule apply? This rule applies to any firm, association, water users' association, corporation, irrigation district, municipal corporation, or anyone else that intends to obtain a reservoir permit to develop an underground artificial storage and recovery project pursuant to RCW 90.03.370. This chapter does not apply to projects utilizing irrigation return flow, or to operational and seepage losses that occur during the irrigation of land, or to water that is artificially stored due to the construction, operation, or maintenance of an irrigation district project, or to projects involving water reclaimed in accordance with chapter 90.46 RCW.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-030, filed 1/15/03, effective 2/15/03.]

WAC 173-157-040 What are the meanings of words and phrases used in this rule? "Aquifer storage and recovery project," "ASR project," or **"underground artificial storage and recovery project"** means those projects where the intent is to artificially store water in an underground geological formation through injection, surface spreading and infiltration, or other department-approved method, and to make subsequent use of the stored water.

"Artificial recharge" means either controlled subsurface addition of water directly to the aquifer or controlled application of water to the ground surface for the purpose of replenishing the aquifer.

"Beneficial use" includes, among others, uses for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, thermal power production, municipal, and preservation of environmental and aesthetic values.

"Confined aquifer" means an aquifer where the permeability of the beds above and below the aquifer is significantly lower than the aquifer itself.

"Department" means the Washington department of ecology.

"DOH" means the Washington department of health.

"Hydraulic continuity" means the existence of some degree of interconnection between two or more sources of water, either surface water and ground water or two ground water sources.

"Hydrogeology" means the study of the geologic aspects of subsurface waters.

"Normative flow" means a flow that resembles the natural flow sufficiently enough to sustain all life stages of several species native to the state of Washington, including salmonid populations.

"Permeability" means the ability for a fluid to be transmitted in porous rock, sediment, or soil.

"Piezometric elevation" means the static level to which the water from a given aquifer will rise under its full head.

"RCW" means the Revised Code of Washington.

"Receiving aquifer" or **"reservoir"** means any portion of a naturally occurring underground geological formation in which the source water will be collected and stored for a future beneficial use as part of an ASR project.

"Reservoir permit" means a permit to artificially store water in underground geological formations and subsequently recover it for beneficial use.

"SEPA" means the State Environmental Policy Act, chapter 43.21C RCW.

"Secondary permit" means a permit for the appropriation of ground water which was artificially stored in underground geological formations for subsequent beneficial use.

"Source water" means water that will be stored in a receiving aquifer.

"Stored water" means water that has been stored in a receiving aquifer pursuant to a reservoir permit issued in accordance with the provisions of this chapter.

"Transmissivity" is a measure of the rate which water passes through the geologic material within an aquifer.

"UIC" means the Underground Injection Control program, which was created by the U.S. Environmental Protection Agency pursuant to federal legislation (the Safe Drinking Water Act) and is administered by the department's water quality program.

"Vadose zone" means within the zone of aeration, i.e., water vapor above the saturation zone within an aquifer.

"WAC" means Washington Administrative Code.

"WDFW" means the Washington department of fish and wildlife.

"You" and **"I"** means any firm, association, water users' association, corporation, irrigation district, municipal corporation, or anyone else that intends to obtain a reservoir permit to develop an underground artificial storage and recovery project pursuant to RCW 90.03.370.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-040, filed 1/15/03, effective 2/15/03.]

WAC 173-157-050 What authorization is required for an ASR project? The following permits or authorizations are required:

(1) **Water rights to source waters.**

(a) Any source water you use as part of a project by diverting from a state watercourse or withdrawing state ground waters, must be obtained under a valid water right permit, certificate, or registered water right claim.

(b) The underlying water right specifies authorized uses. Any proposal to use stored water for different uses will require issuance of a secondary permit.

(2) **Reservoir permit.** When proposing to collect and store water in a naturally occurring underground geological formation for subsequent use as part of an ASR project, you must apply for a reservoir permit in accordance with the provisions of RCW 90.03.370 (2)(a).

(3) **Secondary permit.** You must apply for a secondary permit in accordance with the provisions of RCW 90.03.370 if you propose to apply the water stored in a reservoir to a beneficial use, except that you are not required to apply for a secondary permit if you already have a water right for the source water that authorizes the proposed beneficial use.

(4) **UIC registration.** All UIC wells to be utilized as part of an ASR project must be registered with the department in accordance with the provisions of chapter 90.48 RCW. Additionally, the construction and technical aspects of the injection wells must abide by UIC regulations as stated in chapter 173-160 WAC.

(5) **NPDES permit.** Discharges to surface water must meet water quality standards set forth in chapter 173-201A WAC to protect aquatic life.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-050, filed 1/15/03, effective 2/15/03.]

WAC 173-157-100 What should I know before I apply? (1) You must assess potential impacts to the hydrogeologic system and the environment prior to submitting your application. If your application does not describe the general setting and conditions with sufficient information for the department to assess the application, the department may require you to perform a detailed feasibility study. This feasibility study should reduce uncertainty of the impacts, and better quantify the available storage capacity of the aquifer.

(2) To further reduce uncertainty, you must design a pilot phase for the project, to be used to collect data that will be used to validate the conceptual model, monitor efficacy, and adjust the monitoring, operation, and mitigation plans based upon results. The duration of this phase will be determined by the complexity of the project and stated within the reservoir permit.

(3) You may schedule a preapplication meeting with the department to discuss the project plan and likely requirements for monitoring and mitigation.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-100, filed 1/15/03, effective 2/15/03.]

WAC 173-157-110 What types of information will I need to provide as part of my application? Your application for an ASR project must contain, at a minimum:

(1) A description (conceptual model) of the hydrogeologic system (see WAC 173-157-120) prepared by a hydrogeologist licensed in the state of Washington.

(2) A project operation plan (see WAC 173-157-130) with a description of the pilot and operational phases of the ASR project prepared by an engineer or geologist licensed in the state of Washington.

(3) A description of the legal framework (see WAC 173-157-140) for the proposed project.

(4) An environmental assessment and analysis (see WAC 173-157-150) of any potential adverse conditions or potential impacts to the surrounding ecosystem(s) that might result from the project, along with a plan to mitigate such conditions or impacts.

The environmental assessment will establish whether a determination of nonsignificance or an environmental impact statement is required per SEPA regulations.

(5) A project mitigation plan (see WAC 173-157-160), if required.

(6) A project monitoring plan (see WAC 173-157-170).

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-110, filed 1/15/03, effective 2/15/03.]

WAC 173-157-120 What must I include in the hydrogeologic system description? Your hydrogeologic system description must include a conceptual hydrogeologic model that describes:

(1) The aquifer targeted for storage, to include at a minimum estimates for:

(a) Lateral and vertical extent;

(b) Whether the aquifer is confined or unconfined;

(c) Permeability;

(d) Total storage volume available;

(e) Effective hydraulic conductivity;

(f) Transmissivity; and

(g) Potential for physio-chemical changes in the aquifer or vadose zone as a consequence of recharge.

(2) The estimated flow direction(s) and rate of movement.

(3) The anticipated changes to the ground water system due to the proposed ASR project.

(4) The estimated area that could be affected by the project.

(5) The general geology in the vicinity of the proposed project, including stratigraphy and structure.

(6) The locations of existing documented natural hazards that could be affected or exacerbated by the project, such as landslide-prone areas or areas of subsidence along with a plan to mitigate such conditions or impacts.

(7) The locations of surface waters such as springs, creeks, streams or rivers that could be affected by the ASR project.

(8) The locations of all wells or other sources of ground water of record within the area affected by the project.

(9) The chemical and physical composition of the source water(s) and their compatibility with the naturally occurring waters of the receiving aquifer.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-120, filed 1/15/03, effective 2/15/03.]

WAC 173-157-130 What must I include in the project operation plan? Your project operation plan should include, at a minimum, the following information:

(1) The quantity and times of year source water is available for recharge.

(2) The proposed rate of injection and withdrawal of water.

(3) The length of time the water is proposed to be stored.

(4) The location, number, and capacity of proposed recharge wells or infiltration basins, and recovery facilities.

(5) Any variability in quality and reliability of the source water.

(6) A description of any water treatment method(s) you will use at the time of injection and recovery to ensure compliance with the water quality standards set forth in chapter 173-200 WAC, as well as the department's antidegradation policy.

(7) Any plans to discharge ASR water to a surface body should include information on the quantity, timing, duration, and water quality parameters such as chlorine, pH and dissolved oxygen of the ASR discharge water.

(8) Any operation and maintenance plans to discharge ground water and suspended sediment from the ASR well shall provide information on the quantity, duration, quality, and means of discharge.

(9) Destination(s) and permitting for water used for operation and maintenance (e.g., flushing water).

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-130, filed 1/15/03, effective 2/15/03.]

WAC 173-157-140 What must I include in the description of the legal framework? Your description of the legal framework should include, at a minimum:

(1) Documentation of the water rights for the source waters intended to be stored for the proposed ASR project.

(2) A list of other water rights within the ASR project area.

(3) Instream flows established by the department or stream closures in the vicinity of the point of diversion/withdrawal of the source water and/or within the ASR project area.

(4) Ownership and control of any facilities to be used for the proposed project.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-140, filed 1/15/03, effective 2/15/03.]

WAC 173-157-150 What must I include in the environmental assessment and analysis? Your environmental assessment and analysis must, at a minimum, describe:

(1) The environment within the ASR project area, including:

(a) Proximity to contaminated areas;

(b) Present and prior land use(s) within the ASR project area;

(c) Location(s) of historical or existing wetland habitat(s);

(d) Location(s) of historical or existing flood plain(s);

(e) Location(s) of historical or existing surface water body or spring, including documented:

(i) Base flows;

(ii) Seven-day low flows;

(iii) Maximum flows.

(2) Adverse impacts to the surrounding environment by the ASR project, including, but not limited to:

(a) Slope stability;

(b) Wetland habitat;

(c) Flood plain;

(d) Ground deformation;

(e) Surface water body or spring.

(3) If an environmental assessment has already been performed for the purposes of this specific ASR project, the application may simply refer to that documentation and need not repeat that analysis.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-150, filed 1/15/03, effective 2/15/03.]

WAC 173-157-160 What must I include in the project mitigation plan? Your project mitigation plan, if necessary, must be reviewed and approved or prepared by an appropriately experienced engineer licensed in the state of Washington. The mitigation plan shall prescribe actions to be taken to prevent adverse impacts to the environment and methods for evaluation of the effectiveness of these actions.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-160, filed 1/15/03, effective 2/15/03.]

WAC 173-157-170 What must I include in the project monitoring plan? Your project monitoring plan, which will be utilized to evaluate and verify the assumptions in the conceptual model, during the pilot and operational phases, must include the following:

(1) Proposed time intervals for sampling and subsequent reporting.

(2) Descriptions of measurement methodology, threshold values, and evaluation techniques for the following criteria:

(a) The quality of the source and receiving waters. This information must be provided for the period or periods of the year when the water will be stored. Testing must be done by a laboratory certified by either the department or DOH.

(b) The actual quantity of water injected.

(c) Changes in ground water piezometric elevations in the receiving aquifer.

(d) The percentage of the initial amount of stored water that is recoverable after varying lengths of storage time to validate the estimates of the amount of stored water that is actually recovered.

(e) Data necessary to evaluate the effectiveness of required mitigation.

(f) Other data you or the department determine necessary for monitoring the ASR project and adverse impacts.

You must provide a report of the monitoring data, at least annually, to the department. Based on the complexity of the project, the department may require you to comply with a more frequent reporting schedule. The required reporting frequency will be specified in the reservoir permit.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-170, filed 1/15/03, effective 2/15/03.]

WAC 173-157-180 Where do I submit my application for a reservoir and/or secondary permit? You must submit your application to the ecology water resources regional office that serves the area where your project would be located. Please refer to the department's website for telephone numbers.

(1) The Northwest regional office serves Whatcom, Island, Kitsap, San Juan, Skagit, Snohomish, and King counties.

(2) The Southwest regional office serves Clallam, Jefferson, Grays Harbor, Mason, Thurston, Pierce, Pacific, Lewis, Wahkiakum, Cowlitz, Clark, and Skamania counties.

(3) The Central regional office serves Okanogan, Chelan, Douglas, Kittitas, Yakima, Klickitat, and Benton counties.

(4) The Eastern regional office serves Ferry, Stevens, Pend Oreille, Lincoln, Spokane, Grant, Adams, Whitman, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-180, filed 1/15/03, effective 2/15/03.]

WAC 173-157-200 How will the department issue reservoir permits and/or secondary permits for ASR projects? (1) The department will process applications for permits for ASR projects in accordance with the provisions of RCW 90.03.250 through 90.03.320, RCW 90.03.370, chapter 173-152 WAC and this chapter. The department shall expedite processing applications for those projects that:

(a) Will not require a new water right for diversion or withdrawal of the water to be stored;

(b) Are adding or changing one or more purposes of use for the stored water;

(c) Are adding to the storage capacity of an existing reservoir; or

(d) Are applying for the secondary permit to secure use of water stored in an existing reservoir.

(2) The department shall give strong consideration to the overriding public interest in its evaluation of compliance with ground water quality protection standards.

(3) Any application considered under this chapter that may impact surface waters will be subject to review by the department, WDFW, DOH, and the appropriate Indian tribe(s), specifically to ensure that the following do not occur during ASR project injections or withdrawals:

(a) Alteration of the normative hydrograph which may result in adverse impacts to fish;

(b) Detrimental changes in temperature, nutrient, heavy metals, hydrocarbon, or other deleterious material levels during critical spawning and rearing periods;

(c) Disruption of natural downwelling or upwelling within stream during critical spawning and rearing periods; or

(d) Saturation of stream bank which could lead to erosion, bank failure, and excess sedimentation entering the stream which can alter stream chemistry, flow, and bed morphology.

Each ASR project application will be subject to public notice and comment per RCW 90.03.280. The department will consider any comments by the reviewers in evaluating the application.

(4) The department may issue a conditioned permit to prevent any long-term changes to the aquifer, or other adverse impacts to the environment. The conditioning will provide for a pilot phase of the project, to be used to collect data, monitor efficacy, evaluate the effectiveness of any mitigation plan approved under WAC 173-157-150, and adjust the ASR project or mitigation plan based upon pilot phase results.

(5) Permits will contain a schedule for:

(a) Development and completion of the project;

(b) Monitoring and reporting during the pilot and operational phases of the project.

(6) The department can, upon a showing of good cause, issue extensions for the permit in accordance with the provisions of RCW 90.03.320.

(7) Once sufficient information is developed and provided to the department to verify that the project is viable and the requirements of RCW 90.03.330 have been met, the department will issue proper documentation for the reservoir and secondary permit, if any, with the priority date or dates based on the underlying source water right.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-200, filed 1/15/03, effective 2/15/03.]

WAC 173-157-210 Can I appeal a decision made by the department on my application? Yes, all final written decisions of the department made on applications pursuant to this chapter are subject to review by the pollution control hearings board in accordance with the provisions of chapter 43.21B RCW if you comply with the requirements for appeal established by statute and rule.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-210, filed 1/15/03, effective 2/15/03.]

WAC 173-157-220 Can this regulation be reviewed or updated? Yes, the department may initiate a review of the rules established in this chapter whenever new information, changing conditions, statutory modifications, or other factors make it necessary or desirable to consider revisions.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-220, filed 1/15/03, effective 2/15/03.]

WAC 173-157-230 Where can I obtain copies of ecology statutes and regulations? Copies of statutes and regulations cited in this chapter may be obtained from the public records office at the department's headquarters office. You may also obtain copies by downloading documents from the department's internet site at http://www.ecy.wa.gov or copies of rules of the pollution control hearings board from the pollution control hearings board's internet site at http://www.eho.wa.gov.

[Statutory Authority: RCW 90.03.370 (2)(b) and 90.44.460. 03-03-081 (Order 02-06), § 173-157-230, filed 1/15/03, effective 2/15/03.]

Chapter 173-170 WAC
AGRICULTURAL WATER SUPPLY FACILITIES

WAC

173-170-010	Purpose and authority.
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173-170-040	Comprehensive water conservation plan—Contents—Funding.
173-170-050	Planning phase—Funding.
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173-170-080	Implementation phase—Funding.
173-170-090	Emergency projects—Applications—Designation—Funding.
173-170-100	Yakima River Basin Water Enhancement Project—Funding.

WAC 173-170-010 Purpose and authority. The purpose of this chapter is to establish requirements for the grant and loan program covering rehabilitation, improvement, and construction of agricultural water supply facilities pursuant to Referendum 38, chapter 43.99E RCW. The department shall provide grants and loans to applicants for water supply facilities for agricultural use alone or in combination with fishery, recreational, or other beneficial uses of water. In this regard, an objective of providing state assistance to public bodies engaged in irrigation shall be to assist those entities in improving their efficiency of water use beyond current levels.

Note: All statutes, rules, or regulations cited in this chapter are available for review at Department of Ecology, P.O. Box 47600 Olympia, WA 98504-7600.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. 03-07-104 (Order 02-11), § 173-170-010, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-010, filed 10/2/90, effective 11/2/90.]

WAC 173-170-020 Definitions. (1) "Department" means the Washington state department of ecology.

(2) "Agreement" means a binding legal document containing all applicable terms and conditions pertaining to loans and/or grants entered into under Referendum 38 which is signed by the program manager for the department's water resources program and by the duly authorized official of the applicant.

(3) "Agricultural water supply facility" means a water supply and distribution system used for agricultural purposes and owned or operated by a public body, including but not limited to all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to the acquisition, construction, installation, or use of any such water supply or distribution system.

(4) "Applicant" means the public body making a request for financial assistance under Referendum 38.

(5) "Class A project" means a construction element associated with an agricultural water supply facility which:

(a) Results in improved water use efficiency and/or quantitative water savings as determined by the department; and

(b) Is one or more of the following: (i) Canal and lateral linings; (ii) piped conveyance and distribution system; (iii) consolidation and/or realignment of delivery systems; (iv) flow measuring devices, e.g., flow control devices; (v) entire structures/regulating structures (which are new or replace obsolete ones) including: (A) Checks, (B) checkdrops, (C) siphons, (D) turnouts, (E) flumes, (F) reregulation reservoirs; (vi) multiple use water storage dams and reservoirs; (vii) automation with central control of regulating structures including on-off control of pumping plants in canals and laterals; (viii) new booster pumps for pressurized systems; (ix) project pumping plants;

(c) In the event there are technological advances that increase water use efficiency and/or result in significant water savings that are not described in (a) of this subsection, such project element(s) will be evaluated as a Class A project by the department.

(6) "Class B project" means a construction element associated with an agricultural water supply facility which:

(a) Does not contribute to quantitative water savings as determined by the department; and

(b) Is one or more of the following: (i) In-line water withdrawal pumping plant; (ii) well drilling, well pumps; (iii) diversion dams; (iv) replacement, rehabilitation, or improvement of in-line booster pump(s); (v) rehabilitation or improvement of storage dam(s) or part(s) thereof.

(7) "Emergency project" means a capital improvement construction element to repair, due to natural causes (except drought), water supply, diversion or conveyance facilities, which is necessary to prevent unsafe conditions or ensure the continued delivery or conveyance of water in the agricultural water supply system.

(8) "Financial assistance" means grants and loans as authorized by chapter 43.99E RCW, Referendum 38.

(9) "Fisheries facility" means a construction element associated with an agricultural water supply facility which:

(a) Is identified as an integral element of a project for the construction, rehabilitation, and/or improvement of an agricultural water supply facility; and

(b) Will provide recognized benefits to the anadromous and/or resident fish species of the state.

(10) "Implementation phase" means the acquisition, design, construction, and improvement of agricultural water supply facilities within an irrigation district or a specific area or drainage basin for storing, diverting, transporting, or distributing water to land for irrigation and for protecting and enhancing fisheries, recreational, or other beneficial uses that may be associated with such facilities.

(11) "Local clearinghouse" means the county or regional comprehensive planning agency designated to serve as a coordinating office for certain local areas. A list of clearinghouses is available from the department. The local clearinghouses review proposed projects for conformance to regional plans, ask for comments from other agencies, and relay these remarks back to the applicant. This process helps assure that policies and comprehensive plans of cities, counties, or regions will be followed.

(12) "Payment schedule" means the due dates for loan payments and any interest thereon, as included in the loan agreement.

(13) "Planning phase" means the preparation of a comprehensive water conservation plan which conforms with WAC 173-170-060, which covers the applicant's entire jurisdiction and service area.

(14) "Plans and specifications" means engineering information and calculations to support the project and construction drawings with necessary engineering detail of the project and complete material specifications and standards to support the drawings and project. These will be prepared in sufficient detail and, upon approval by the department, become part of the bid documents which allow contractors to bid on and construct agricultural water supply facilities or attendant fisheries facilities or recreational facilities or a portion thereof.

(15) "Public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal or public corporation thereof; an agency of the federal government; and those Indian tribes which may constitutionally receive grants or loans from the state of Washington.

(16) "Recreational facility" means a water and/or water-associated system which:

(a) Is identified as an integral element of an agricultural water supply facility; and

(b) Will provide recognized benefits for human use and recreation through fishing, boating, water skiing, swimming, rafting, picnicking, and/or camping.

(17) "Referendum 38" means the grant and loan financial assistance program and its procedures, which pertain to agricultural water supply facilities alone or in combination with fishery, recreational, or other beneficial uses of water, as authorized in chapter 43.99E RCW.

(18) "Request for financial assistance" means the formal application packet, as described in WAC 173-170-030 and 173-170-060, submitted to the department requesting grant and/or loan funds to accomplish an eligible project.

(19) "Water use efficiency elements" means those implementation projects or portions thereof which result in reduced operational and conveyance losses and improved delivery of requisite amounts of water to farms within the limits of the pertinent water right permit or certificate.

(20) "Yakima River Basin Water Enhancement Project" (YRBWEP) is a federal, tribal, state and local cooperative program for improving water supply, habitat and stream flow conditions in the Yakima River Basin of Washington. The project was originally authorized by Congress in 1979 with subsequent implementing legislation being passed in 1984 for fish passage improvements and in 1994 for water conservation and related elements.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. 03-07-104 (Order 02-11), § 173-170-020, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-020, filed 10/2/90, effective 11/2/90.]

WAC 173-170-040 Comprehensive water conservation plan—Contents—Funding. The comprehensive water conservation plan, which is the ultimate work product due at the end of the planning phase, will address and provide information on the following topics for the geographical area indicated in the request for financial assistance:

Applicant Organization

(1) Applicant's statutory authority; history of organization management; assessment authority; and operation procedures and management policies.

Land Base and Land Use

(2) Layout map showing:

(a) Boundaries of the applicant's jurisdiction and service area;

(b) Location of: (i) The lands which are assessed by the applicant, and (ii) those lands to which water is delivered in accordance with the water rights or water right claims or otherwise;

(c) Land use information including total acres irrigated over a representative historical period and cropping patterns for each year of a recent five-year period.

Water Supply, Use, and Rights

(3) Layout map showing location of: (a) Natural features (streams, rivers, lakes, ground water aquifers) including those in the watershed(s) where the water supply originates; and (b) all of the applicant's existing water supply facilities inside and out of its service area.

(4) Information on the applicant's and/or pertinent individual's water rights and/or water right claims for irrigation water supply, including ongoing or future water rights or water rights claims, conflicts, and litigation.

(5) Hydrologic water supply data including historical records of surface water availability (natural flows and storage), and ground water pumpages and other pertinent aquifer data on availability for withdrawal for water supply purposes.

(6) Quantities of surface water diverted and/or ground water withdrawn for water supply for each year of a recent five-year period. (Annual and monthly acre-feet and maximum and minimum monthly flows in cubic feet per second (cfs) for surface water and gallons per minute (gpm) for ground water.)

(7) Identify and assess the hydrological water flow system within the applicant's service area as it pertains to the quantities of water: (a) Diverted or withdrawn, (b) conveyed and distributed, (c) delivered and applied on farm, (d) which recharge the ground water and are returned to the agricultural water supply system, and (e) which comprise return flows for further irrigation downstream within the agricultural water supply system.

(8) Identify the quality of water supply and an assessment of the water quality impacts from use of the agricultural water supply system within the applicant's jurisdiction.

Present Facilities and Operations

(9) Identify and describe the present physical system utilized for the storage, diversion, pumping, conveyance, and distribution of the water supply.

(10) Assess and evaluate the existing water supply system including system efficiencies and energy use.

Water Needs and Adequacy of Water Supply

(11) Forecast future trends of land use.

(12) Estimate irrigation water requirements for the present and anticipated land use and cropping patterns.

(13) Relate the water needs to present water supply available.

Evaluation of Opportunities for Improvements in Water Supply and Distribution System Efficiencies

(14) Identify improvements in water supply and distribution system efficiencies (structural and nonstructural).

(15) Document a system improvements and rehabilitation plan, prepare preliminary designs and cost estimates, and estimate time frame for implementation. Identify location of improvements on layout map.

(16) Quantify the reasonable net water savings that would result from the efficiency improvements.

(17) Identify and describe opportunities for improving irrigation water management.

(18) Quantify any net energy savings that would result from efficiency improvements.

(19) Evaluate the socioeconomic impacts from the efficiency improvements and rehabilitation plan and changes or modifications of the systems operations and management

policies. Discuss and quantify the benefits that accrue from the implementation of the improvements and rehabilitation plan.

(20) Assess and evaluate the impacts and benefits of transferring the net water savings to other water uses and resources.

(21) Identify associated wetlands and assess the impacts on them from implementation of the physical system's improvements and rehabilitation plan.

(22) Evaluate the impacts on water quality standards from implementation of the physical system's improvements and rehabilitation plan.

(23) Evaluate other environmental impacts from the efficiency improvements and rehabilitation plan. Develop a plan regarding compliance with the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA) if applicable.

Financial

(24) Develop a financial program that addresses the implementation of the improvements and rehabilitation plan. The financial program should include, among other elements, a time schedule for completing the comprehensive water conservation plan, a summary of the applicant's current indebtedness and repayment plans, present and future operation, maintenance and energy costs (with and without implementation of the proposed project), and a schedule of assessments to cover planned indebtedness to complete implementation of the comprehensive water conservation plan.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. 03-07-104 (Order 02-11), § 173-170-040, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-040, filed 10/2/90, effective 11/2/90.]

WAC 173-170-050 Planning phase—Funding. (1) As available and awarded, financial assistance for the planning phase will be provided in the form of:

(a) Grants in the amount of fifty percent of the total eligible phase costs; and

(b) Concurrent loans in the amount of forty percent of the total eligible phase costs.

(2) Loans shall be for a maximum five-year period, repayable at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following July 1 of the state fiscal year in which the loan agreement is entered into, discounted by four percent.

(3) Comprehensive water conservation plans must precede the implementation phase for projects approved after the effective date of these rules.

(4) Financial assistance for the planning phase, regardless of the form it takes, may not exceed two hundred thousand dollars per applicant.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. 03-07-104 (Order 02-11), § 173-170-050, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-050, filed 10/2/90, effective 11/2/90.]

WAC 173-170-070 Criteria for approval of requests for financial assistance—Implementation phase. (1) The implementation phase project(s) must be included in a comprehensive water conservation plan approved by the department.

(2) The agricultural water supply facilities must be designed to accomplish the purpose of the planned project. Accepted engineering design principles, criteria, and concepts will be used in the design of the facilities and approved by the department. Cost estimates for the proposed project must be prepared in detail. Plans and specifications must be approved by the department prior to advertising for construction bids.

(3) The State Environmental Policy Act (SEPA) requirements for any proposed actions must be met. The SEPA rules, chapter 197-11 WAC, will be followed to determine the environmental impacts of the proposed project. A copy of the final SEPA document and any needed supporting environmental analysis must be submitted to the department.

(4) Documentation showing all lands and land rights required for satisfactory construction, operation, and maintenance of the project have been or can be acquired.

(5) The project will not be in conflict with any applicable federal, state, and local laws, orders, regulations, rules, licenses, and permits.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. 03-07-104 (Order 02-11), § 173-170-070, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-070, filed 10/2/90, effective 11/2/90.]

WAC 173-170-080 Implementation phase—Funding. (1) Implementation phase projects will be categorized by the department as Class A projects or Class B projects in accordance with the definitions for those terms under WAC 173-170-020 (5) and (6).

(2) As funds are available and awarded, financial assistance for Class A projects subject to a completed comprehensive water conservation plan shall be provided in the form of:

(a) Grants in the amount of thirty percent of the total eligible project costs; and

(b) Concurrent loans in the amount of sixty percent of the total eligible project costs.

(c) The department may issue an additional portion of the funding in grants for projects with significant public benefit.

(3) As funds are available and awarded, financial assistance for Class B projects subject to a completed comprehensive water conservation plan will be provided in the form of:

(a) Grants in the amount of fifteen percent of the total eligible project costs; and

(b) Concurrent loans in the amount of seventy-five percent of the total eligible project costs.

(4) Financial assistance for implementation phase projects shall be limited to a total of two million five hundred thousand dollars per applicant regardless of the form, except that loans once fully repaid shall not be measured against the limit.

(5) Loans awarded shall be available on the following repayment and interest schedule:

(a) Loans for up to a maximum five-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following the beginning of the state fiscal year (July 1) in

which the loan agreement is entered into, discounted by four percent.

(b) Loans for five years through a maximum ten-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following the beginning of the state fiscal year (July 1) in which the loan agreement is entered into, discounted by two percent.

(c) Loans for ten years through a maximum fifteen-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following the beginning of the state fiscal year (July 1) in which the loan agreement is entered into, discounted by one percent.

(d) Loans for fifteen years through a maximum twenty-five-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following the beginning of the state fiscal year (July 1) in which the loan agreement is entered into.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. 03-07-104 (Order 02-11), § 173-170-080, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-080, filed 10/2/90, effective 11/2/90.]

WAC 173-170-090 Emergency projects—Applications—Designation—Funding. (1) Applications for emergency projects may be accepted at any time throughout the year. The application shall indicate:

(a) The nature of the occurrence that caused the need for repairs;

(b) The location of needed repairs;

(c) A project description of the repairs; and

(d) A summary of how the repairs fit within the long-range improvements addressed in the comprehensive water conservation plan.

If the comprehensive water conservation plan has not been completed, a summary of how the repairs fit within proposed long-range improvements.

(2) A decision on whether to fund the emergency project will be made within fifteen days of receipt of the application. The department may agree to the applicant incurring costs prior to an agreement being signed and shall so indicate by letter to the applicant.

(3) Financial assistance for emergency projects shall be in the form of loans for up to ninety percent of the total eligible project costs.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. 03-07-104 (Order 02-11), § 173-170-090, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-090, filed 10/2/90, effective 11/2/90.]

WAC 173-170-100 Yakima River Basin Water Enhancement Project—Funding. (1) The Yakima River Basin Water Enhancement Project (YRBWEP) may be provided state funding by agreement with the department, to the extent that moneys are available.

(2) Funds provided under this section for YRBWEP shall be exempt from WAC 173-170-080.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. 03-07-104 (Order 02-11), § 173-170-100, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-100, filed 10/2/90, effective 11/2/90.]

Chapter 173-183 WAC

PREASSESSMENT SCREENING AND OIL SPILL COMPENSATION SCHEDULE REGULATIONS

WAC

173-183-820	RDA committee chair responsibilities.
173-183-830	Calculation of damages for spills into marine and estuarine waters, except the Columbia River estuary.
173-183-850	Calculation of damages for spills in freshwater streams, rivers, and lakes.
173-183-860	Calculation of damages for spills into freshwater wetlands.

WAC 173-183-820 RDA committee chair responsibilities. (1) The RDA committee chair shall, in consultation with the OSC and RDA committee, determine the following:

(a) For spills into marine or estuarine environments excluding the Columbia River estuary:

(i) The acute toxicity, mechanical injury and persistence oil class rankings for the spilled oil as provided in WAC 173-183-340;

(ii) Subregion(s) exposed to the spilled oil;

(iii) Habitat types exposed to the spilled oil as classified in WAC 173-183-410 for spills of 1,000 gallons or more;

(iv) Percent coverage of each habitat type within the area of spill exposure for spills of 1,000 gallons or more;

(v) Percent coverage of habitat types present within the subregion(s) exposed to spilled oil for spills of less than 1,000 gallons.

(vi) A spill's habitat vulnerability scores (HVS) for acute toxicity, mechanical injury, and persistence as determined by the procedures outlined in WAC 173-183-400; and

(vii) The spill vulnerability scores (SVS_{AT}, SVS_{MI}, SVS_{PER}) for the most vulnerable season affected by the spill using the formula provided in WAC 173-183-400.

(b) For spills in the estuarine waters of the Columbia River:

(i) The acute toxicity, mechanical injury, and persistence oil class rankings for the spilled oil as provided in WAC 173-183-340;

(ii) The cell(s) exposed to the spilled oil; and

(iii) The spill vulnerability score (SVS) for the most vulnerable season affected by the spilled oil using the procedures provided in WAC 173-183-500.

(c) For spills in freshwater streams, rivers, and lakes:

(i) The acute toxicity, mechanical injury and persistence oil class rankings for the spilled oil as provided in WAC 173-183-340;

(ii) Freshwater vulnerability score as described in WAC 173-183-610;

(iii) Freshwater habitat index as described in WAC 173-183-620; and

(iv) Spill vulnerability score (SVS) as outlined in WAC 173-183-600 for each stream, river, and/or lake environment exposed to the spill; and

(d) For spills in freshwater wetlands:

(i) The acute toxicity, mechanical injury, and persistence oil class rankings for the spilled oil as provided in WAC 173-183-340;

(ii) Freshwater wetland vulnerability score as described in WAC 173-183-710;

(iii) Spill vulnerability score (SVS) as outlined in WAC 173-183-700 for each wetland exposed to the spill.

(2) For spills that enter more than one environment, the RDA committee chair shall, in consultation with the OSC and RDA committee, make the determinations enumerated under subsection (1)(a) through (d) of this section.

[Statutory Authority: Chapter 90.48 RCW. 03-11-010 (Order 03-03), § 173-183-820, filed 5/12/03, effective 6/12/03; 92-10-005 (Order 91-13), § 173-183-820, filed 4/23/92, effective 5/24/92.]

WAC 173-183-830 Calculation of damages for spills into marine and estuarine waters, except the Columbia River estuary. (1) The formula provided in subsection (2) of this section shall be used to determine damages liability for spills into marine and estuarine waters, except the estuarine waters of Columbia River. The value of the variables used in the formula shall be determined by:

(a) The OSC as enumerated in WAC 173-183-810(1);

(b) The mutually agreed upon independent expert, if applicable, as described in WAC 173-183-810(2); and

(c) The RDA committee chair as enumerated in WAC 173-183-820 (1)(a).

(2) In making the determination of percent-coverage of habitat types, the RDA committee chair may assume that the habitat-type visible at low tide extends out to the 20 meter depth contour.

(3) Damages liability shall be calculated using the following formula:

Damages ($) =
gallons spilled* 0.1* [(OIL_{AT}*$SVS_{AT,j}$) + (OIL_{MI}*$SVS_{MI,j}$) + (OIL_{PER}*$SVS_{PER,j}$)]

where: gallons spilled = the number of gallons of oil spilled as determined by the procedures outlined in WAC 173-183-810;
$SVS_{i,j}$ = spill vulnerability score (from WAC 173-183-400(3));
OIL_{AT} = Acute Toxicity Score for Oil (from WAC 173-183-340);
OIL_{MI} = Mechanical Injury Score for Oil (from WAC 173-183-340); and
OIL_{PER} = Persistence Score for Oil (from WAC 173-183-340).
i = acute toxicity, mechanical injury and persistence effect of oil
j = the most sensitive season affected by the spill
0.1 = multiplier to adjust the damages calculated to the $1-50 per gallon range.

Formula results shall be rounded to the nearest 0.01 to determine damages liability as follows: Decimals less than 0.005 shall be rounded down, and decimals equal to or greater than 0.005 shall be rounded up.

[Statutory Authority: Chapter 90.48 RCW. 03-11-010 (Order 03-03), § 173-183-830, filed 5/12/03, effective 6/12/03; 92-10-005 (Order 91-13), § 173-183-830, filed 4/23/92, effective 5/24/92.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 173-183-850 Calculation of damages for spills in freshwater streams, rivers, and lakes. (1) The formula provided in subsection (2) of this section shall be used to determine damages liability for spills into freshwater streams, rivers, and lakes. The value of the variables used in the formula shall be determined by:

(a) The OSC as enumerated in WAC 173-183-810(1);

(b) The mutually agreed upon independent expert, if applicable, as described in WAC 173-183-810(2); and

(c) The RDA committee chair as enumerated in WAC 173-183-820 (1)(c).

(2) Damages liability shall be calculated using the following formula:

Damages ($) =
gallons spilled* 0.08* SVS* (OIL_{AT} + OIL_{MI} + OIL_{PER})

where: gallons spilled = the number of gallons of oil spilled as determined by the procedures outlined in WAC 173-183-810;
SVS = Spill vulnerability score [from WAC 173-183-600(3)];
OIL_{AT} = Acute Toxicity Score for Oil [from WAC 173-183-340];
OIL_{MI} = Mechanical Injury Score for Oil [from WAC 173-183-340]; and
OIL_{PER} = Persistence Score for Oil [from WAC 173-183-340].
0.08 = multiplier to adjust damages calculated to the $1-50 per gallon range;

Formula results shall be rounded to the nearest 0.01 to determine damages liability as follows: Decimals less than 0.005 shall be rounded down, and decimals equal to or greater than 0.005 shall be rounded up.

[Statutory Authority: Chapter 90.48 RCW. 03-11-010 (Order 03-03), § 173-183-850, filed 5/12/03, effective 6/12/03; 92-10-005 (Order 91-13), § 173-183-850, filed 4/23/92, effective 5/24/92.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 173-183-860 Calculation of damages for spills into freshwater wetlands. (1) The formula provided in subsection (2) of this section shall be used to determine damages liability for spills into freshwater wetlands. The value of the variables used in the formula shall be determined by:

(a) The OSC as enumerated in WAC 173-183-810(1);

(b) The mutually agreed upon independent expert, if applicable, as described in WAC 173-183-810(2); and

(c) the RDA committee chair as enumerated in WAC 173-183-820 (1)(d).

(2) Damages liability shall be calculated using the following formula:

Damages ($) =
gallons spilled* 0.81* SVS* (OIL_{AT} + OIL_{MI} + OIL_{PER})

where: gallons spilled = the number of gallons of oil spilled as determined by procedures outlined in WAC 173-183-810;
SVS = Spill vulnerability score [from WAC 173-183-700(3)];

OIL_{AT} = Acute Toxicity Score for Oil [from WAC 173-183-340];
OIL_{MI} = Mechanical Injury Score for Oil [from WAC 173-183-340]; and
OIL_{PER} = Persistence Score for Oil [from WAC 173-183-340].
0.81 = multiplier to adjust damages calculated to the $1-50 per gallon range;

Formula results shall be rounded to the nearest 0.01 to determine damages liability as follows: Decimals less than 0.005 shall be rounded down, and decimals equal to or greater than 0.005 shall be rounded up.

[Statutory Authority: Chapter 90.48 RCW. 03-11-010 (Order 03-03), § 173-183-860, filed 5/12/03, effective 6/12/03; 92-10-005 (Order 91-13), § 173-183-860, filed 4/23/92, effective 5/24/92.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

Chapter 173-201A WAC

WATER QUALITY STANDARDS FOR SURFACE WATERS OF THE STATE OF WASHINGTON

WAC

173-201A-010 Purpose.
173-201A-020 Definitions.
173-201A-030 Repealed.
173-201A-040 Decodified.
173-201A-050 Decodified.
173-201A-060 Repealed.
173-201A-070 Repealed.
173-201A-080 Repealed.
173-201A-100 Decodified.
173-201A-110 Decodified.
173-201A-120 Repealed.
173-201A-130 Repealed.
173-201A-140 Repealed.
173-201A-150 Decodified.
173-201A-160 Decodified.
173-201A-170 Decodified.
173-201A-180 Decodified.
173-201A-200 Fresh water designated uses and criteria.
173-201A-210 Marine water designated uses and criteria.
173-201A-230 Establishing lake nutrient criteria.
173-201A-240 Toxic substances.
173-201A-250 Radioactive substances.
173-201A-260 Natural conditions and other water quality criteria and applications.
173-201A-300 Description.
173-201A-310 Tier I—Protection and maintenance of existing and designated uses.
173-201A-320 Tier II—Protection of waters of higher quality than the standards.
173-201A-330 Tier III—Protection of outstanding resource waters.
173-201A-400 Mixing zones.
173-201A-410 Short-term modifications.
173-201A-420 Variance.
173-201A-430 Site-specific criteria.
173-201A-440 Use attainability analysis.
173-201A-450 Water quality offsets.
173-201A-500 Achievement considerations.
173-201A-510 Means of implementation.
173-201A-520 Monitoring and compliance.
173-201A-530 Enforcement.
173-201A-600 Use designations—Fresh waters.
173-201A-602 Table 602—Use designations for fresh waters by water resource inventory area (WRIA).
173-201A-610 Use designations—Marine waters.
173-201A-612 Table 612—Use designations for marine waters.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-201A-030 General water use and criteria classes. [Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-030, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-030, filed 11/25/92, effective 12/26/92.] Repealed by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW.

173-201A-040 Toxic substances. [Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-040, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-040, filed 11/25/92, effective 12/26/92.] Amended and decodified by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW. Recodified as § 173-201A-240.

173-201A-050 Radioactive substances. [Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-050, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-050, filed 11/25/92, effective 12/26/92.] Decodified by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW. Recodified as § 173-201A-250.

173-201A-060 General considerations. [Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-060, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-060, filed 11/25/92, effective 12/26/92.] Repealed by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW.

173-201A-070 Antidegradation. [Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-070, filed 11/25/92, effective 12/26/92.] Repealed by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW.

173-201A-080 Outstanding resource waters. [Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-080, filed 11/25/92, effective 12/26/92.] Repealed by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW.

173-201A-100 Mixing zones. [Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-100, filed 11/25/92, effective 12/26/92.] Amended and decodified by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW. Recodified as § 173-201A-400.

173-201A-110 Short-term modifications. [Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-110, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-110, filed 11/25/92, effective 12/26/92.] Amended and decodified by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW. Recodified as § 173-201A-410.

173-201A-120 General classifications. [Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-120, filed 11/25/92, effective 12/26/92.] Repealed by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW.

173-201A-130 Specific classifications—Freshwater. [Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-130, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-130, filed 11/25/92, effective 12/26/92.] Repealed by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW.

173-201A-140 Specific classifications—Marine water. [Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-140, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-140, filed 11/25/92, effective 12/26/92.] Repealed by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW.

173-201A-150 Achievement considerations. [Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-150, filed 11/25/92, effective 12/26/92.] Decodified by 03-14-129 (Order 02-14), filed 7/1/03, effective

8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW. Recodified as § 173-201A-500.

173-201A-160 Implementation. [Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-160, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-160, filed 11/25/92, effective 12/26/92.] Amended and decodified by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW. Recodified as § 173-201A-510.

173-201A-170 Surveillance. [Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-170, filed 11/25/92, effective 12/26/92.] Amended and decodified by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW. Recodified as § 173-201A-520.

173-201A-180 Enforcement. [Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-180, filed 11/25/92, effective 12/26/92.] Decodified by 03-14-129 (Order 02-14), filed 7/1/03, effective 8/1/03. Statutory Authority: Chapters 90.48 and 90.54 RCW. Recodified as § 173-201A-530.

WAC 173-201A-010 Purpose. (1) The purpose of this chapter is to establish water quality standards for surface waters of the state of Washington consistent with public health and public enjoyment of the waters and the propagation and protection of fish, shellfish, and wildlife, pursuant to the provisions of chapter 90.48 RCW. All actions must comply with this chapter. As part of this chapter:

(a) All surface waters are protected by narrative criteria, designated uses, and an antidegradation policy.

(b) Based on the use designations, numeric and narrative criteria are assigned to a water body to protect the existing and designated uses.

(c) Where multiple criteria for the same water quality parameter are assigned to a water body to protect different uses, the most stringent criteria for each parameter is to be applied.

(2) Surface waters of the state include lakes, rivers, ponds, streams, inland waters, saltwaters, wetlands, and all other surface waters and water courses within the jurisdiction of the state of Washington.

(3) This chapter will be reviewed periodically by the department and appropriate revisions will be undertaken.

(4) WAC 173-201A-200 through 173-201A-260 describe the designated water uses and criteria for the state of Washington. These criteria were established based on existing and potential water uses of the surface waters of the state. Consideration was also given to both the natural water quality potential and its limitations. Compliance with the surface water quality standards of the state of Washington requires compliance with chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington, chapter 173-204 WAC, Sediment management standards, and applicable federal rules.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-010, filed 7/1/03, effective 8/1/03. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-010, filed 11/25/92, effective 12/26/92.]

WAC 173-201A-020 Definitions. The following definitions are intended to facilitate the use of chapter 173-201A WAC:

"1-DMax" or **"1-day maximum temperature"** is the highest water temperature reached on any given day. This measure can be obtained using calibrated maximum/minimum thermometers or continuous monitoring probes having sampling intervals of thirty minutes or less.

"7-DADMax" or **"7-day average of the daily maximum temperatures"** is the arithmetic average of seven consecutive measures of daily maximum temperatures. The 7-DADMax for any individual day is calculated by averaging that day's daily maximum temperature with the daily maximum temperatures of the three days prior and the three days after that date.

"Action value" means a total phosphorus (TP) value established at the upper limit of the trophic states in each ecoregion. Exceedance of an action value indicates that a problem is suspected. A lake-specific study may be needed to confirm if a nutrient problem exits.

"Actions" refers broadly to any human projects or activities.

"Acute conditions" are changes in the physical, chemical, or biologic environment which are expected or demonstrated to result in injury or death to an organism as a result of short-term exposure to the substance or detrimental environmental condition.

"AKART" is an acronym for "all known, available, and reasonable methods of prevention, control, and treatment." AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution. The term "best management practices," typically applied to nonpoint source pollution controls is considered a subset of the AKART requirement.

"Background" means the biological, chemical, and physical conditions of a water body, outside the area of influence of the discharge under consideration. Background sampling locations in an enforcement action would be up-gradient or outside the area of influence of the discharge. If several discharges to any water body exist, and enforcement action is being taken for possible violations to the standards, background sampling would be undertaken immediately up-gradient from each discharge.

"Best management practices (BMP)" means physical, structural, and/or managerial practices approved by the department that, when used singularly or in combination, prevent or reduce pollutant discharges.

"Biological assessment" is an evaluation of the biological condition of a water body using surveys of aquatic community structure and function and other direct measurements of resident biota in surface waters.

"Bog" means those wetlands that are acidic, peat forming, and whose primary water source is precipitation, with little, if any, outflow.

"Carcinogen" means any substance or agent that produces or tends to produce cancer in humans. For implementation of this chapter, the term carcinogen will apply to substances on the United States Environmental Protection Agency lists of A (known human) and B (probable human) carcinogens, and any substance which causes a significant increased incidence of benign or malignant tumors in a single, well conducted animal bioassay, consistent with the weight of evidence approach specified in the United States Environmental Protection Agency's Guidelines for Carcino-

genic Risk Assessment as set forth in 51 FR 33992 et seq. as presently published or as subsequently amended or republished.

"Chronic conditions" are changes in the physical, chemical, or biologic environment which are expected or demonstrated to result in injury or death to an organism as a result of repeated or constant exposure over an extended period of time to a substance or detrimental environmental condition.

"Created wetlands" means those wetlands intentionally created from nonwetland sites to produce or replace natural wetland habitat.

"Critical condition" is when the physical, chemical, and biological characteristics of the receiving water environment interact with the effluent to produce the greatest potential adverse impact on aquatic biota and existing or designated water uses. For steady-state discharges to riverine systems the critical condition may be assumed to be equal to the 7Q10 flow event unless determined otherwise by the department.

"Damage to the ecosystem" means any demonstrated or predicted stress to aquatic or terrestrial organisms or communities of organisms which the department reasonably concludes may interfere in the health or survival success or natural structure of such populations. This stress may be due to, but is not limited to, alteration in habitat or changes in water temperature, chemistry, or turbidity, and shall consider the potential build up of discharge constituents or temporal increases in habitat alteration which may create such stress in the long term.

"Department" means the state of Washington department of ecology.

"Designated uses" are those uses specified in this chapter for each water body or segment, regardless of whether or not the uses are currently attained.

"Director" means the director of the state of Washington department of ecology.

"Drainage ditch" means that portion of a designed and constructed conveyance system that serves the purpose of transporting surplus water; this may include natural water courses or channels incorporated in the system design, but does not include the area adjacent to the water course or channel.

"Ecoregions" are defined using EPAs *Ecoregions of the Pacific Northwest* Document No. 600/3-86/033 July 1986 by Omernik and Gallant.

"Enterococci" refers to a subgroup of the fecal streptococci that includes *S. faecalis, S. faecium, S. gallinarum,* and *S. avium*. The enterococci are differentiated from other streptococci by their ability to grow in 6.5% sodium chloride, at pH 9.6, and at 10°C and 45°C.

"*E. coli*" or **"*Escherichia coli*"** is an aerobic and facultative gram negative nonspore forming rod shaped bacterium that can grow at 44.5 degrees Celsius that is ortho-nitrophenyl-B-D-galactopyranoside (ONPG) positive and Methylumbelliferyl glucuronide (MUG) positive.

"Existing uses" means those uses actually attained in fresh or marine waters on or after November 28, 1975, whether or not they are designated uses. Introduced species that are not native to Washington, and put-and-take fisheries comprised of nonself-replicating introduced native species, do not need to receive full support as an existing use.

"Extraordinary primary contact" means waters providing extraordinary protection against waterborne disease or that serve as tributaries to extraordinary quality shellfish harvesting areas.

"Fecal coliform" means that portion of the coliform group which is present in the intestinal tracts and feces of warm-blooded animals as detected by the product of acid or gas from lactose in a suitable culture medium within twenty-four hours at 44.5 plus or minus 0.2 degrees Celsius.

"Geometric mean" means either the nth root of a product of n factors, or the antilogarithm of the arithmetic mean of the logarithms of the individual sample values.

"Ground water exchange" means the discharge and recharge of ground water to a surface water. Discharge is inflow from an aquifer, seeps or springs that increases the available supply of surface water. Recharge is outflow downgradient to an aquifer or downstream to surface water for base flow maintenance. Exchange may include ground water discharge in one season followed by recharge later in the year.

"Hardness" means a measure of the calcium and magnesium salts present in water. For purposes of this chapter, hardness is measured in milligrams per liter and expressed as calcium carbonate ($CaCO_3$).

"Irrigation ditch" means that portion of a designed and constructed conveyance system that serves the purpose of transporting irrigation water from its supply source to its place of use; this may include natural water courses or channels incorporated in the system design, but does not include the area adjacent to the water course or channel.

"Lakes" shall be distinguished from riverine systems as being water bodies, including reservoirs, with a mean detention time of greater than fifteen days.

"Lake-specific study" means a study intended to quantify existing nutrient concentrations, determine existing characteristic uses for lake class waters, and potential lake uses. The study determines how to protect these uses and if any uses are lost or impaired because of nutrients, algae, or aquatic plants. An appropriate study must recommend a criterion for total phosphorus (TP), total nitrogen (TN) in µg/l, or other nutrient that impairs characteristic uses by causing excessive algae blooms or aquatic plant growth.

"Mean detention time" means the time obtained by dividing a reservoir's mean annual minimum total storage by the thirty-day ten-year low-flow from the reservoir.

"Migration or translocation" means any natural movement of an organism or community of organisms from one locality to another locality.

"Mixing zone" means that portion of a water body adjacent to an effluent outfall where mixing results in the dilution of the effluent with the receiving water. Water quality criteria may be exceeded in a mixing zone as conditioned and provided for in WAC 173-201A-400.

"Natural conditions" or **"natural background levels"** means surface water quality that was present before any human-caused pollution. When estimating natural conditions in the headwaters of a disturbed watershed it may be necessary to use the less disturbed conditions of a neighboring or

similar watershed as a reference condition. (See also WAC 173-201A-260(1).)

"New or expanded actions" mean human actions that occur or are regulated for the first time, or human actions expanded such that they result in an increase in pollution, after July 1, 2003, for the purpose of applying this chapter only.

"Nonpoint source" means pollution that enters any waters of the state from any dispersed land-based or water-based activities, including but not limited to atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

"Permit" means a document issued pursuant to chapter 90.48 RCW specifying the waste treatment and control requirements and waste discharge conditions.

"pH" means the negative logarithm of the hydrogen ion concentration.

"Pollution" means such contamination, or other alteration of the physical, chemical, or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

"Primary contact recreation" means activities where a person would have direct contact with water to the point of complete submergence including, but not limited to, skin diving, swimming, and water skiing.

"Secondary contact recreation" means activities where a person's water contact would be limited (e.g., wading or fishing) to the extent that bacterial infections of eyes, ears, respiratory or digestive systems, or urogenital areas would normally be avoided.

"Shoreline stabilization" means the anchoring of soil at the water's edge, or in shallow water, by fibrous plant root complexes; this may include long-term accretion of sediment or peat, along with shoreline progradation in such areas.

"Storm water" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a storm water drainage system into a defined surface water body, or a constructed infiltration facility.

"Storm water attenuation" means the process by which peak flows from precipitation are reduced and runoff velocities are slowed as a result of passing through a surface water body.

"Surface waters of the state" includes lakes, rivers, ponds, streams, inland waters, saltwaters, wetlands and all other surface waters and water courses within the jurisdiction of the state of Washington.

"Temperature" means water temperature expressed in degrees Celsius (°C).

"Treatment wetlands" means those wetlands intentionally constructed on nonwetland sites and managed for the primary purpose of wastewater or storm water treatment. Treatment wetlands are considered part of a collection and treatment system, and generally are not subject to the criteria of this chapter.

"Trophic state" means a classification of the productivity of a lake ecosystem. Lake productivity depends on the amount of biologically available nutrients in water and sediments and may be based on total phosphorus (TP). Secchi depth and chlorophyll-a measurements may be used to improve the trophic state classification of a lake. Trophic states used in this rule include, from least to most nutrient rich, ultra-oligotrophic, oligotrophic, lower mesotrophic, upper mesotrophic, and eutrophic.

"Turbidity" means the clarity of water expressed as nephelometric turbidity units (NTU) and measured with a calibrated turbidimeter.

"Upwelling" means the natural process along Washington's Pacific Coast where the summer prevailing northerly winds produce a seaward transport of surface water. Cold, deeper more saline waters rich in nutrients and low in dissolved oxygen, rise to replace the surface water. The cold oxygen deficient water enters Puget Sound and other coastal estuaries at depth where it displaces the existing deep water and eventually rises to replace the surface water. Such surface water replacement results in an overall increase in salinity and nutrients accompanied by a depression in dissolved oxygen. Localized upwelling of the deeper water of Puget Sound can occur year-round under influence of tidal currents, winds, and geomorphic features.

"USEPA" means the United States Environmental Protection Agency.

"Wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands. (Water bodies not included in the definition of wetlands as well as those mentioned in the definition are still waters of the state.)

"Wildlife habitat" means waters of the state used by, or that directly or indirectly provide food support to, fish, other aquatic life, and wildlife for any life history stage or activity.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-020, filed 7/1/03, effective 8/1/03. Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-020, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-020, filed 11/25/92, effective 12/26/92.]

WAC 173-201A-030 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-201A-040 Decodified. See Disposition Table at beginning of this chapter.

WAC 173-201A-050 Decodified. See Disposition Table at beginning of this chapter.

WAC 173-201A-060 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-201A-070 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-201A-080 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-201A-100 Decodified. See Disposition Table at beginning of this chapter.

WAC 173-201A-110 Decodified. See Disposition Table at beginning of this chapter.

WAC 173-201A-120 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-201A-130 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-201A-140 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-201A-150 Decodified. See Disposition Table at beginning of this chapter.

WAC 173-201A-160 Decodified. See Disposition Table at beginning of this chapter.

WAC 173-201A-170 Decodified. See Disposition Table at beginning of this chapter.

WAC 173-201A-180 Decodified. See Disposition Table at beginning of this chapter.

WAC 173-201A-200 Fresh water designated uses and criteria. The following uses are designated for protection in fresh surface waters of the state. Use designations for water bodies are listed in WAC 173-201A-600 and 173-201A-602.

(1) **Aquatic life uses.** Aquatic life uses are designated using the following categories of key species. It is required that all indigenous fish and nonfish aquatic species be protected in waters of the state in addition to the key species described below.

(a) The categories for aquatic life uses are:

(i) **Char.** For the protection of spawning and early tributary rearing (e.g., first year juveniles) of native char (bull trout and Dolly Varden), and other associated aquatic life.

(ii) **Salmon and trout spawning, core rearing, and migration.** For the protection of spawning, core rearing, and migration of salmon and trout, and other associated aquatic life.

(iii) **Salmon and trout spawning, noncore rearing, and migration.** For the protection of spawning, noncore rearing, and migration of salmon and trout, and other associated aquatic life.

(iv) **Salmon and trout rearing and migration only.** For the protection of rearing and migration of salmon and trout, and other associated aquatic life.

(v) **Non-anadromous interior redband trout.** For the protection of waters where the only trout species is a non-anadromous form of self-reproducing interior redband trout (*O. mykis*), and other associated aquatic life.

(vi) **Indigenous warm water species.** For the protection of waters where the dominant species under natural conditions would be temperature tolerant indigenous nonsalmonid species. Examples include dace, redside shiner, chiselmouth, sucker, and northern pikeminnow.

(b) **General criteria.** General criteria that apply to all aquatic life fresh water uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

(i) Toxic, radioactive, and deleterious materials; and

(ii) Aesthetic values.

(c) **Aquatic life temperature criteria.** Except where noted, water temperature is measured by the 7-day average of the daily maximum temperatures (7-DADMax). Table 200 (1)(c) lists the temperature criteria for each of the aquatic life use categories.

Table 200 (1)(c)
Aquatic Life Temperature Criteria in Fresh Water

Category	Highest 7-DADMax
Char	12°C (53.6°F)
Salmon and Trout Spawning, **Core** Rearing, and Migration	16°C (60.8°F)
Salmon and Trout Spawning, **Noncore** Rearing, and Migration	17.5°C (63.5°F)
Salmon and Trout Rearing and Migration **Only**	17.5°C (63.5°F)
Non-anadromous Interior Redband Trout	18°C (64.4°F)
Indigenous Warm Water Species	20°C (68°F)

(i) When a water body's temperature is warmer than the criteria in Table 200 (1)(c) (or within 0.3°C (0.54°F) of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the 7-DADMax temperature of that water body to increase more than 0.3°C (0.54°F).

(ii) When the natural condition of the water is cooler than the criteria in Table 200 (1)(c), the allowable rate of warming up to, but not exceeding, the numeric criteria from human actions is restricted as follows:

(A) Incremental temperature increases resulting from individual point source activities must not, at any time, exceed 28/(T+5) as measured at the edge of a mixing zone boundary (where "T" represents the background temperature as measured at a point or points unaffected by the discharge and representative of the highest ambient water temperature in the vicinity of the discharge); and

(B) Incremental temperature increases resulting from the combined effect of all nonpoint source activities in the water body must not, at any time, exceed 2.8°C (5.04°F).

(iii) Temperatures are not to exceed the criteria at a probability frequency of more than once every ten years on average.

(iv) Spawning and incubation protection. Where the department determines the temperature criteria established for a water body would likely not result in protective spawning and incubation temperatures, the following criteria apply:

• Maximum 7-DADMax temperatures of 9°C (48.2°F) at the initiation of spawning and at fry emergence for char; and

• Maximum 7-DADMax temperatures of 13°C (55.4°F) at the initiation of spawning for salmon and at fry emergence for salmon and trout.

The two criteria above are protective of incubation as long as human actions do not significantly disrupt the normal patterns of fall cooling and spring warming that provide significantly colder temperatures over the majority of the incubation period. The department will maintain a list of waters where the single-summer maximum criterion is not sufficient to protect spawning and incubation.

(v) For lakes, human actions considered cumulatively may not increase the 7-DADMax temperature more than 0.3°C (0.54°F) above natural conditions.

(vi) Temperature measurements should be taken to represent the dominant aquatic habitat of the monitoring site. This typically means samples should:

(A) Be taken from well mixed portions of rivers and streams; and

(B) Not be taken from shallow stagnant backwater areas, within isolated thermal refuges, at the surface, or at the water's edge.

(vii) The department will incorporate the following guidelines on preventing acute lethality and barriers to migration of salmonids into determinations of compliance with the narrative requirements for use protection established in this chapter (e.g., WAC 173-201A-310(1), 173-201A-400(4), and 173-201A-410 (1)(c)). The following site-level considerations do not, however, override the temperature criteria established for waters in subsection (1)(c) of this section or WAC 173-201A-602:

(A) Moderately acclimated (16-20°C, or 60.8-68°F) adult and juvenile salmonids will generally be protected from acute lethality by discrete human actions maintaining the 7-DADMax temperature at or below 22°C (71.6°F) and the 1-day maximum (1-DMax) temperature at or below 23°C (73.4°F).

(B) Lethality to developing fish embryos can be expected to occur at a 1-DMax temperature greater than 17.5°C (63.5°F).

(C) To protect aquatic organisms, discharge plume temperatures must be maintained such that fish could not be entrained (based on plume time of travel) for more than two seconds at temperatures above 33°C (91.4°F) to avoid creating areas that will cause near instantaneous lethality.

(D) Barriers to adult salmonid migration are assumed to exist any time the 1-DMax temperature is greater than 22°C (71.6°F) and the adjacent downstream water temperatures are 3°C (5.4°F) or more cooler.

(viii) Nothing in this chapter shall be interpreted to prohibit the establishment of effluent limitations for the control of the thermal component of any discharge in accordance with 33 U.S.C. 1326 (commonly known as section 316 of the Clean Water Act).

(d) **Aquatic life dissolved oxygen (D.O.) criteria.** The D.O. criteria are measured in milligrams per liter (mg/L). Table 200 (1)(d) lists the 1-day minimum D.O. for each of the aquatic life use categories.

Table 200 (1)(d)
Aquatic Life Dissolved Oxygen Criteria in Fresh Water

Category	Lowest 1-Day Minimum
Char	9.5 mg/L
Salmon and Trout Spawning, **Core** Rearing, and Migration	9.5 mg/L
Salmon and Trout Spawning, **Noncore** Rearing, and Migration	8.0 mg/L
Salmon and Trout Rearing and Migration **Only**	6.5 mg/L
Non-anadromous Interior Redband Trout	8.0 mg/L
Indigenous Warm Water Species	6.5 mg/L

(i) When a water body's D.O. is lower than the criteria in Table 200 (1)(d) (or within 0.2 mg/L of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the D.O. of that water body to decrease more than 0.2 mg/L.

(ii) For lakes, human actions considered cumulatively may not decrease the dissolved oxygen concentration more than 0.2 mg/L below natural conditions.

(iii) Concentrations of D.O. are not to fall below the criteria in the table at a probability frequency of more than once every ten years on average.

(iv) D.O. measurements should be taken to represent the dominant aquatic habitat of the monitoring site. This typically means samples should:

(A) Be taken from well mixed portions of rivers and streams; and

(B) Not be taken from shallow stagnant backwater areas, within isolated thermal refuges, at the surface, or at the water's edge.

(e) **Aquatic life turbidity criteria.** Turbidity is measured in "nephelometric turbidity units" or "NTUs." Table 200 (1)(e) lists the maximum turbidity criteria for each of the aquatic life use categories.

Table 200 (1)(e)
Aquatic Life Turbidity Criteria in Fresh Water

Category	NTUs
Char	Turbidity shall not exceed: • 5 NTU over background when the background is 50 NTU or less; or

Category	NTUs
	• A 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
Salmon and Trout Spawning, **Core** Rearing, and Migration	Same as above.
Salmon and Trout Spawning, **Noncore** Rearing, and Migration	Same as above.
Salmon and Trout Rearing and Migration **Only**	Turbidity shall not exceed: • 10 NTU over background when the background is 50 NTU or less; or • A 20 percent increase in turbidity when the background turbidity is more than 50 NTU.
Non-anadromous Interior Redband Trout	Turbidity shall not exceed: • 5 NTU over background when the background is 50 NTU or less; or • A 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
Indigenous Warm Water Species	Turbidity shall not exceed: • 10 NTU over background when the background is 50 NTU or less; or • A 20 percent increase in turbidity when the background turbidity is more than 50 NTU.

(i) The turbidity criteria established under WAC 173-201A-200 (1)(e) shall be modified, without specific written authorization from the department, to allow a temporary area of mixing during and immediately after necessary in-water construction activities that result in the disturbance of in-place sediments. This temporary area of mixing is subject to the constraints of WAC 173-201A-400 (4) and (6) and can occur only after the activity has received all other necessary local and state permits and approvals, and after the implementation of appropriate best management practices to avoid or minimize disturbance of in-place sediments and exceedances of the turbidity criteria. A temporary area of mixing shall be as follows:

(A) For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from the activity causing the turbidity exceedance.

(B) For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of the activity causing the turbidity exceedance.

(C) For waters above 100 cfs flow at the time of construction, the point of compliance shall be three hundred feet downstream of the activity causing the turbidity exceedance.

(D) For projects working within or along lakes, ponds, wetlands, estuaries, marine waters or other nonflowing waters, the point of compliance shall be at a radius of one hundred fifty feet from the activity causing the turbidity exceedance.

(f) **Aquatic life total dissolved gas (TDG) criteria.** TDG is measured in percent saturation. Table 200 (1)(f) lists the maximum TDG criteria for each of the aquatic life use categories.

Table 200 (1)(f)
Aquatic Life Total Dissolved Gas Criteria in Fresh Water

Category	Percent Saturation
Char	Total dissolved gas shall not exceed 110 percent of saturation at any point of sample collection.
Salmon and Trout Spawning, **Core** Rearing, and Migration	Same as above.
Salmon and Trout Spawning, **Noncore** Rearing, and Migration	Same as above.
Salmon and Trout Rearing and Migration **Only**	Same as above.
Non-anadromous Interior Redband Trout	Same as above.
Indigenous Warm Water Species	Same as above.

(i) The water quality criteria established in this chapter for TDG shall not apply when the stream flow exceeds the seven-day, ten-year frequency flood.

(ii) The TDG criteria may be adjusted to aid fish passage over hydroelectric dams when consistent with a department approved gas abatement plan. This plan must be accompanied by fisheries management and physical and biological monitoring plans. The elevated TDG levels are intended to allow increased fish passage without causing more harm to fish populations than caused by turbine fish passage. The following special fish passage exemptions for the Snake and Columbia rivers apply when spilling water at dams is necessary to aid fish passage:

• TDG must not exceed an average of one hundred fifteen percent as measured in the forebays of the next downstream dams and must not exceed an average of one hundred twenty percent as measured in the tailraces of each dam (these averages are measured as an average of the twelve highest consecutive hourly readings in any one day, relative to atmospheric pressure); and

• A maximum TDG one hour average of one hundred twenty-five percent must not be exceeded during spillage for fish passage.

(g) **Aquatic life pH criteria.** Measurement of pH is expressed as the negative logarithm of the hydrogen ion concentration. Table 200 (1)(g) lists the pH levels for each of the aquatic life use categories.

Table 200 (1) (g)
Aquatic Life pH Criteria in Fresh Water

Use Category	pH Units
Char	pH shall be within the range of 6.5 to 8.5, with a human-caused variation within the above range of less than 0.2 units.
Salmon and Trout Spawning, **Core** Rearing, and Migration	Same as above.
Salmon and Trout Spawning, **Noncore** Rearing, and Migration	pH shall be within the range of 6.5 to 8.5 with a human-caused variation within the above range of less than 0.5 units.
Salmon and Trout Rearing and Migration **Only**	Same as above.
Non-anadromous Interior Redband Trout	Same as above.
Indigenous Warm Water Species	Same as above.

(2) **Recreational uses.** The recreational uses are extraordinary primary contact recreation, primary contact recreation, and secondary contact recreation.

(a) **General criteria.** General criteria that apply to fresh water recreational uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

(i) Toxic, radioactive, and deleterious materials; and

(ii) Aesthetic values.

(b) **Water contact recreation bacteria criteria.** Table 200 (2)(b) lists the bacteria criteria to protect water contact recreation in fresh waters.

Table 200 (2)(b)
Water Contact Recreation Bacteria Criteria in Fresh Water

Category	Bacteria Indicator
Extraordinary Primary Contact Recreation	Fecal coliform organism levels must not exceed a geometric mean value of 50 colonies/100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 100 colonies/100 mL.
Primary Contact Recreation	Fecal coliform organism levels must not exceed a geometric mean value of 100 colonies /100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 200 colonies /100 mL.
Secondary Contact Recreation	Fecal coliform organism levels must not exceed a geometric mean value of 200 colonies/100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 400 colonies /100 mL.

(i) When averaging bacteria sample data for comparison to the geometric mean criteria, it is preferable to average by season and include five or more data collection events within each period. Averaging of data collected beyond a thirty-day period, or beyond a specific discharge event under investigation, is not permitted when such averaging would skew the data set so as to mask noncompliance periods. The period of averaging should not exceed twelve months, and should have sample collection dates well distributed throughout the reporting period.

(ii) When determining compliance with the bacteria criteria in or around small sensitive areas, such as swimming beaches, it is recommended that multiple samples are taken throughout the area during each visit. Such multiple samples should be arithmetically averaged together (to reduce concerns with low bias when the data is later used in calculating a geometric mean) to reduce sample variability and to create a single representative data point.

(iii) As determined necessary by the department, more stringent bacteria criteria may be established for rivers and streams that cause, or significantly contribute to, the decertification or conditional certification of commercial or recreational shellfish harvest areas, even when the preassigned bacteria criteria for the river or stream are being met.

(iv) Where information suggests that sample results are due primarily to sources other than warm-blooded animals (e.g., wood waste), alternative indicator criteria may be established on a site-specific basis by the department.

(3) **Water supply uses.** The water supply uses are domestic, agricultural, industrial, and stock watering.

General criteria. General criteria that apply to the water supply uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

(a) Toxic, radioactive, and deleterious materials; and

(b) Aesthetic values.

(4) **Miscellaneous uses.** The miscellaneous fresh water uses are wildlife habitat, harvesting, commerce and navigation, boating, and aesthetics.

General criteria. General criteria that apply to miscellaneous fresh water uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

(a) Toxic, radioactive, and deleterious materials; and

(b) Aesthetic values.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-200, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-210 Marine water designated uses and criteria. The following uses are designated for protection in marine surface waters of the state of Washington. Use designations for specific water bodies are listed in WAC 173-201A-612.

(1) **Aquatic life uses.** Aquatic life uses are designated using the following general categories. It is required that all indigenous fish and nonfish aquatic species be protected in waters of the state.

(a) **The categories for aquatic life uses are:**

(i) **Extraordinary quality** salmonid and other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.

(ii) **Excellent quality** salmonid and other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.

(iii) **Good quality** salmonid migration and rearing; other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.

(iv) **Fair quality** salmonid and other fish migration.

(b) **General criteria.** General criteria that apply to aquatic life marine water uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

(i) Toxic, radioactive, and deleterious materials; and

(ii) Aesthetic values.

(c) **Aquatic life temperature criteria.** Except where noted, temperature is measured as a 1-day maximum temperature (1-DMax). Table 210 (1)(c) lists the temperature criteria for each of the aquatic life use categories.

Table 210 (1)(c)
Aquatic Life Temperature Criteria in Marine Water

Category	Highest 1-DMax
Extraordinary quality	13°C (55.4°F)
Excellent quality	16°C (60.8°F)
Good quality	19°C (66.2°F)
Fair quality	22°C (71.6°F)

(i) When a water body's temperature is warmer than the criteria in Table 210 (1)(c) (or within 0.3°C (0.54°F) of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the 7-DADMax temperature of that water body to increase more than 0.3°C (0.54°F).

(ii) When the natural condition of the water is cooler than the criteria in Table 210 (1)(c), the allowable rate of warming up to, but not exceeding, the numeric criteria from human actions is restricted as follows:

(A) Incremental temperature increases resulting from individual point source activities must not, at any time, exceed 12/(T-2) as measured at the edge of a mixing zone boundary (where "T" represents the background temperature as measured at a point or points unaffected by the discharge and representative of the highest ambient water temperature in the vicinity of the discharge); and

(B) Incremental temperature increases resulting from the combined effect of all nonpoint source activities in the water body must not, at any time, exceed 2.8°C (5.04°F).

(iii) Temperatures are not to exceed the criteria at a probability frequency of more than once every ten years on average.

(iv) Temperature measurements should be taken to represent the dominant aquatic habitat of the monitoring site. This typically means samples should not be taken from shallow stagnant backwater areas, within isolated thermal refuges, at the surface, or at the water's edge.

(v) The department will incorporate the following guidelines on preventing acute lethality and barriers to migration of salmonids into determinations of compliance with the narrative requirements for use protection established in this chapter (e.g., WAC 173-201A-310(1), 173-201A-400(4), and 173-201A-410 (1)(c)). The following site-level considerations do not, however, override the temperature criteria established for waters in subsection (1)(c) of this subsection or WAC 173-201A-612:

(A) Moderately acclimated (16-20°C, or 60.8-68°F) adult and juvenile salmonids will generally be protected from acute lethality by discrete human actions maintaining the 7-DADMax temperature at or below 22°C (71.6°F) and the 1-DMax temperature at or below 23°C (73.4°F).

(B) Lethality to developing fish embryos can be expected to occur at a 1-DMax temperature greater than 17.5°C (63.5°F).

(C) To protect aquatic organisms, discharge plume temperatures must be maintained such that fish could not be entrained (based on plume time of travel) for more than two seconds at temperatures above 33°C (91.4°F) to avoid creating areas that will cause near instantaneous lethality.

(D) Barriers to adult salmonid migration are assumed to exist any time the 1-DMax temperature is greater than 22°C (71.6°F) and the adjacent downstream water temperatures are 3°C (5.4°F) or more cooler.

(vi) Nothing in this chapter shall be interpreted to prohibit the establishment of effluent limitations for the control of the thermal component of any discharge in accordance with 33 U.S.C. 1326 (commonly known as section 316 of the Clean Water Act).

(d) **Aquatic life dissolved oxygen (D.O.) criteria.** Except where noted, D.O. concentrations are measured as a 1-day minimum in milligrams per liter. Table 210 (1)(d) lists the D.O. criteria for each of the aquatic life use categories.

Table 210 (1)(d)
Aquatic Life Dissolved Oxygen Criteria in Marine Water

Category	Lowest 1-Day Minimum
Extraordinary quality	7.0 mg/L
Excellent quality	6.0 mg/L
Good quality	5.0 mg/L
Fair quality	4.0 mg/L

(i) When a water body's D.O. is lower than the criteria in Table 210 (1)(d) (or within 0.2 mg/L of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the D.O. of that water body to decrease more than 0.2 mg/L.

(ii) Concentrations of D.O. are not to fall below the criteria in the table at a probability frequency of more than once every ten years on average.

(iii) D.O. measurements should be taken to represent the dominant aquatic habitat of the monitoring site. This typi-

cally means samples should not be taken from shallow stagnant backwater areas, within isolated thermal refuges, at the surface, or at the water's edge.

(e) **Aquatic life turbidity criteria.** Turbidity is measured in "nephelometric turbidity units" or "NTUs." Table 210 (1)(e) lists the one-day maximum turbidity allowed as a result of human actions for each of the aquatic life use categories.

Table 210 (1) (e)
Aquatic Life Turbidity Criteria in Marine Water

Category	NTUs
Extraordinary quality	Turbidity must not exceed: • 5 NTU over background when the background is 50 NTU or less; or • A 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
Excellent quality	Same as above.
Good quality	Turbidity must not exceed: • 10 NTU over background when the background is 50 NTU or less; or • A 20 percent increase in turbidity when the background turbidity is more than 50 NTU.
Fair quality	Same as above.

(i) The turbidity criteria established under WAC 173-201A-210 (1)(e) shall be modified, without specific written authorization from the department, to allow a temporary area of mixing during and immediately after necessary in-water construction activities that result in the disturbance of in-place sediments. This temporary area of mixing is subject to the constraints of WAC 173-201A-400 (4) and (6) and can occur only after the activity has received all other necessary local and state permits and approvals, and after the implementation of appropriate best management practices to avoid or minimize disturbance of in-place sediments and exceedances of the turbidity criteria. A temporary area of mixing shall be as follows:

(A) For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from the activity causing the turbidity exceedance.

(B) For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of the activity causing the turbidity exceedance.

(C) For waters above 100 cfs flow at the time of construction, the point of compliance shall be three hundred feet downstream of the activity causing the turbidity exceedance.

(D) For projects working within or along lakes, ponds, wetlands, estuaries, marine waters or other nonflowing waters, the point of compliance shall be at a radius of one hundred fifty feet from the activity causing the turbidity exceedance.

(f) **Aquatic life pH criteria.** Measurement of pH is expressed as the negative logarithm of the hydrogen ion concentration. Table 210 (1)(f) lists the pH levels allowed as a result of human actions for each of the aquatic life use categories.

Table 210 (1)(f)
Aquatic Life pH Criteria in Marine Water

Use Category	pH Units
Extraordinary quality	pH must be within the range of 7.0 to 8.5 with a human-caused variation within the above range of less than 0.2 units.
Excellent quality	pH must be within the range of 7.0 to 8.5 with a human-caused variation within the above range of less than 0.5 units.
Good quality	Same as above.
Fair quality	pH must be within the range of 6.5 to 9.0 with a human-caused variation within the above range of less than 0.5 units.

(2) **Shellfish harvesting.**

(a) General criteria. General criteria that apply to shellfish harvesting uses for marine water are described in WAC 173-201A-260 (2)(a) and (b), and are for:

(i) Toxic, radioactive, and deleterious materials; and

(ii) Aesthetic values.

(b) **Shellfish harvesting bacteria criteria.** To protect shellfish harvesting, fecal coliform organism levels must not exceed a geometric mean value of 14 colonies/100 mL, and not have more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 43 colonies/100 mL.

(i) Shellfish growing areas approved for unconditional harvest by the state department of health are fully supporting the shellfish harvest goals of this chapter, even when comparison with the criteria contained in this chapter suggest otherwise.

(ii) When averaging bacteria sample data for comparison to the geometric mean criteria, it is preferable to average by season and include five or more data collection events within each period. Averaging of data collected beyond a thirty-day period, or beyond a specific discharge event under investigation, is not permitted when such averaging would skew the data set so as to mask noncompliance periods. The period of averaging should not exceed twelve months, and should have sample collection dates well distributed throughout the reporting period.

(iii) When determining compliance with the bacteria criteria in or around small sensitive areas, it is recommended that multiple samples are taken throughout the area during each visit. Such multiple samples should be arithmetically averaged together (to reduce concerns with low bias when the data is later used in calculating a geometric mean) to reduce sample variability and to create a single representative data point.

(iv) As determined necessary by the department, more stringent bacteria criteria may be established for waters that cause, or significantly contribute to, the decertification or conditional certification of commercial or recreational shellfish harvest areas, even when the preassigned bacteria criteria for the water is being met.

(v) Where information suggests that sample results are due primarily to sources other than warm-blooded animals (e.g., wood waste), alternative indicator criteria may be established on a site-specific basis by the department.

(3) **Recreational uses.** The recreational uses are primary contact recreation and secondary contact recreation.

(a) **General criteria.** General criteria that apply to water contact uses for marine water are described in WAC 173-201A-260 (2)(a) and (b), and are for:

(i) Toxic, radioactive, and deleterious materials; and

(ii) Aesthetic values.

(b) **Water contact recreation bacteria criteria.** Table 210 (3)(b) lists the bacteria criteria to protect water contact recreation in marine water.

Table 210 (3)(b)
Water Contact Recreation Bacteria Criteria in Marine Water

Category	Bacteria Indicator
Primary Contact Recreation	Fecal coliform organism levels must not exceed a geometric mean value of 14 colonies/100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 41 colonies/100 mL.
Secondary Contact Recreation	Enterococci organism levels must not exceed a geometric mean value of 70 colonies/100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 208 colonies/100 mL.

(i) When averaging bacteria sample data for comparison to the geometric mean criteria, it is preferable to average by season and include five or more data collection events within each period. Averaging of data collected beyond a thirty-day period, or beyond a specific discharge event under investigation, is not permitted when such averaging would skew the data set so as to mask noncompliance periods. The period of averaging should not exceed twelve months, and should have sample collection dates well distributed throughout the reporting period.

(ii) When determining compliance with the bacteria criteria in or around small sensitive areas, such as swimming beaches, it is recommended that multiple samples are taken throughout the area during each visit. Such multiple samples should be arithmetically averaged together (to reduce concerns with low bias when the data is later used in calculating a geometric mean) to reduce sample variability and to create a single representative data point.

(iii) As determined necessary by the department, more stringent bacteria criteria may be established for waters that cause, or significantly contribute to, the decertification or conditional certification of commercial or recreational shellfish harvest areas, even when the preassigned bacteria criteria for the water is being met.

(iv) Where information suggests that sample results are due primarily to sources other than warm-blooded animals (e.g., wood waste), alternative indicator criteria may be established on a site-specific basis by the department.

(4) **Miscellaneous uses.** The miscellaneous marine water uses are wildlife habitat, harvesting, commerce and navigation, boating, and aesthetics.

General criteria. General criteria that apply in miscellaneous marine water uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

(a) Toxic, radioactive, and deleterious materials; and

(b) Aesthetic values.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-210, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-230 Establishing lake nutrient criteria. (1) The following table shall be used to aid in establishing nutrient criteria:

(Table 230(1)) The ecoregional and trophic-state action values for establishing nutrient criteria:

Coast Range, Puget Lowlands, and Northern Rockies Ecoregions:			
Trophic State	**If Ambient TP (µg/l) Range of Lake is:**		**Then criteria should be set at:**
Ultra-oligotrophic	0-4		4 or less
Oligotrophic	>4-10		10 or less
Lower mesotrophic	>10-20		20 or less
	Action value		
	>20	. . .	lake specific study may be initiated.
Cascades Ecoregion:			
Trophic State	**If Ambient TP (µg/l) Range of Lake is:**		**Then criteria should be set at:**
Ultra-oligotrophic	0-4		4 or less
Oligotrophic	>4-10		10 or less
	Action value		
	>10	. . .	lake specific study may be initiated.
Columbia Basin Ecoregion:			
Trophic State	**If Ambient TP (µg/l) Range of Lake is:**		**Then criteria should be set at:**
Ultra-oligotrophic	0-4		4 or less
Oligotrophic	>4-10		10 or less
Lower mesotrophic	>10-20		20 or less
Upper mesotrophic	>20-35		35 or less
	Action value		
	>35	. . .	lake specific study may be initiated.

Lakes in the Willamette, East Cascade Foothills, or Blue Mountain ecoregions do not have recommended values and need to have lake-specific studies in order to receive criteria as described in subsection (3) of this section.

(2) The following actions are recommended if ambient monitoring of a lake shows the epilimnetic total phosphorus concentration, as shown in Table 1 of this section, is below the action value for an ecoregion:

(a) Determine trophic status from existing or newly gathered data. The recommended minimum sampling to determine trophic status is calculated as the mean of four or more samples collected from the epilimnion between June through

September in one or more consecutive years. Sampling must be spread throughout the season.

(b) Propose criteria at or below the upper limit of the trophic state; or

(c) Conduct lake-specific study to determine and propose to adopt appropriate criteria as described in (c) of this subsection.

(3) The following actions are recommended if ambient monitoring of a lake shows total phosphorus to exceed the action value for an ecoregion shown in Table 1 of this section or where recommended ecoregional action values do not exist:

(a) Conduct a lake-specific study to evaluate the characteristic uses of the lake. A lake-specific study may vary depending on the source or threat of impairment. Phytoplankton blooms, toxic phytoplankton, or excessive aquatic plants, are examples of various sources of impairment. The following are examples of quantitative measures that a study may describe: Total phosphorus, total nitrogen, chlorophyll-a, dissolved oxygen in the hypolimnion if thermally stratified, pH, hardness, or other measures of existing conditions and potential changes in any one of these parameters.

(b) Determine appropriate total phosphorus concentrations or other nutrient criteria to protect characteristic lake uses. If the existing total phosphorus concentration is protective of characteristic lake uses, then set criteria at existing total phosphorus concentration. If the existing total phosphorus concentration is not protective of the existing characteristic lake uses, then set criteria at a protective concentration. Proposals to adopt appropriate total phosphorus criteria to protect characteristic uses must be developed by considering technical information and stakeholder input as part of a public involvement process equivalent to the Administrative Procedure Act (chapter 34.05 RCW).

(c) Determine if the proposed total phosphorus criteria necessary to protect characteristic uses is achievable. If the recommended criterion is not achievable and if the characteristic use the criterion is intended to protect is not an existing use, then a higher criterion may be proposed in conformance with 40 CFR part 131.10.

(4) The department will consider proposed lake-specific nutrient criteria during any water quality standards rule making that follows development of a proposal. Adoption by rule formally establishes the criteria for that lake.

(5) Prioritization and investigation of lakes by the department will be initiated by listing problem lakes in a watershed needs assessment, and scheduled as part of the water quality program's watershed approach to pollution control. This prioritization will apply to lakes identified as warranting a criteria based on the results of a lake-specific study, to lakes warranting a lake-specific study for establishing criteria, and to lakes requiring restoration and pollution control measures due to exceedance of an established criterion. The adoption of nutrient criteria are generally not intended to apply to lakes or ponds with a surface area smaller than five acres; or to ponds wholly contained on private property owned and surrounded by a single landowner; and nutrients do not drain or leach from these lakes or private ponds to the detriment of other property owners or other water bodies; and do not impact designated uses in the lake. However, if the landowner proposes criteria the department may consider adoption.

(6) The department may not need to set a lake-specific criteria or further investigate a lake if existing water quality conditions are naturally poorer (higher TP) than the action value and uses have not been lost or degraded, per WAC 173-201A-260(1).

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-230, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-240 Toxic substances. (1) Toxic substances shall not be introduced above natural background levels in waters of the state which have the potential either singularly or cumulatively to adversely affect characteristic water uses, cause acute or chronic toxicity to the most sensitive biota dependent upon those waters, or adversely affect public health, as determined by the department.

(2) The department shall employ or require chemical testing, acute and chronic toxicity testing, and biological assessments, as appropriate, to evaluate compliance with subsection (1) of this section and to ensure that aquatic communities and the existing and characteristic beneficial uses of waters are being fully protected.

(3) The following criteria, found in Table 240(3), shall be applied to all surface waters of the state of Washington for the protection of aquatic life. The department may revise the following criteria on a statewide or water body-specific basis as needed to protect aquatic life occurring in waters of the state and to increase the technical accuracy of the criteria being applied. The department shall formally adopt any appropriate revised criteria as part of this chapter in accordance with the provisions established in chapter 34.05 RCW, the Administrative Procedure Act. The department shall ensure there are early opportunities for public review and comment on proposals to develop revised criteria. Values are µg/L for all substances except Ammonia and Chloride which are mg/L:

Table 240(3)
Toxics Substances Criteria

	Freshwater		Marine Water	
Substance	Acute	Chronic	Acute	Chronic
Aldrin/Dieldrin e	2.5a	0.0019b	0.71a	0.0019b
Ammonia	f,c	g,d	0.233h,c	0.035h,d
(un-ionized NH3) hh				
Arsenic dd	360.0c	190.0d	69.0c,ll	36.0d,cc,ll
Cadmium dd	i,c	j,d	42.0c	9.3d
Chlordane	2.4a	0.0043b	0.09a	0.004b

Substance	Freshwater		Marine Water	
	Acute	Chronic	Acute	Chronic
Chloride (Dissolved) k	860.0h,c	230.0h,d	-	-
Chlorine (Total Residual)	19.0c	11.0d	13.0c	7.5d
Chlorpyrifos	0.083c	0.041d	0.011c	0.0056d
Chromium (Hex) dd	15.0c,l,ii	10.0d,jj	1,100.0c,l,ll	50.0d,ll
Chromium (Tri) gg	m,c	n,d	-	-
Copper dd	o,c	p,d	4.8c,ll	3.1d,ll
Cyanide ee	22.0c	5.2d	1.0c,mm	d,mm
DDT (and metabolites)	1.1a	0.001b	0.13a	0.001b
Dieldrin/Aldrin e	2.5a	0.0019b	0.71a	0.0019b
Endosulfan	0.22a	0.056b	0.034a	0.0087b
Endrin	0.18a	0.0023b	0.037a	0.0023b
Heptachlor	0.52a	0.0038b	0.053a	0.0036b
Hexachlorocyclohexane (Lindane)	2.0a	0.08b	0.16a	-
Lead dd	q,c	r,d	210.0c,ll	8.1d,ll
Mercury s	2.1c,kk,dd	0.012d,ff	1.8c,ll,dd	0.025d,ff
Nickel dd	t,c	u,d	74.0c,ll	8.2d,ll
Parathion	0.065c	0.013d	-	-
Pentachlorophenol (PCP)	w,c	v,d	13.0c	7.9d
Polychlorinated				
Biphenyls (PCBs)	2.0b	0.014b	10.0b	0.030b
Selenium	20.0c,ff	5.0d,ff	290c,ll,dd	71.0d, x,ll,dd
Silver dd	y,a	-	1.9a,ll	-
Toxaphene	0.73c,z	0.0002d	0.21c,z	0.0002d
Zinc dd	aa,c	bb,d	90.0c,ll	81.0d,ll

Notes to Table 240(3):

a. An instantaneous concentration not to be exceeded at any time.
b. A 24-hour average not to be exceeded.
c. A 1-hour average concentration not to be exceeded more than once every three years on the average.
d. A 4-day average concentration not to be exceeded more than once every three years on the average.
e. Aldrin is metabolically converted to Dieldrin. Therefore, the sum of the Aldrin and Dieldrin concentrations are compared with the Dieldrin criteria.
f. Shall not exceed the numerical value given by:

$$\text{For salmonids present:} \quad \frac{0.275}{1 + 10^{7.204\text{-pH}}} + \frac{39.0}{1 + 10^{\text{pH-7.205}}}$$

$$\text{For salmonids absent:} \quad \frac{0.411}{1 + 10^{7.204\text{-pH}}} + \frac{58.4}{1 + 10^{\text{pH-7.20}}}$$

g. Shall not exceed the numerical concentration calculated as follows:
Unionized ammonia concentration for waters where salmonid habitat is an existing or designated use:

$$0.80 \div (\text{FT})(\text{FPH})(\text{RATIO})$$

where:
$\text{RATIO} = 13.5;\ 7.7 \le \text{pH} \le 9$
$\text{RATIO} = (20.25 \times 10^{(7.7\text{-pH})}) \div (1 + 10^{(7.4\text{-pH})});\ 6.5 \le \text{pH} \le 7.7$
$\text{FT} = 1.4;\ 15 \le T \le 30$
$\text{FT} = 10^{[0.03(20\text{-}T)]};\ 0 \le T \le 15$
$\text{FPH} = 1;\ 8 \le \text{pH} \le 9$
$\text{FPH} = (1 + 10^{(7.4\text{-pH})}) \div 1.25;\ 6 \le \text{pH} \le 8.0$

Total ammonia concentrations for waters where salmonid habitat is not an existing or designated use and other fish early life stages are absent:

$$\text{Chronic criterion} = \frac{0.0557}{1 + 10^{7.688\text{-pH}}} + \frac{2.487}{1 + 10^{\text{pH-7.688}}} \qquad (1.45 \times 10^{0.028(25\text{-}A)})$$

where: A = the greater of either T (temperature in degrees Celsius) or 7.

Applied as a thirty-day average concentration of total ammonia nitrogen (in mg N/L) not to be exceeded more than once every three years on average. The highest four-day average within the thirty-day period should not exceed 2.5 times the chronic criterion.

Total ammonia concentration for waters where salmonid habitat is not an existing or designated use and other fish early life stages are present:

$$\text{Chronic criterion} = \frac{0.0557}{1 + 10^{7.688-pH}} + \frac{2.487}{1 + 10^{pH-7.688}} \qquad \text{(B)}$$

where: B = the lower of either 2.85, or $1.45 \times 10^{0.028 \times (25-T)}$. T = temperature in degrees Celsius.

Applied as a thirty-day average concentration of total ammonia nitrogen (in mg N/L) not to be exceeded more than once every three years on the average. The highest four-day average within the thirty-day period should not exceed 2.5 times the chronic criterion.

h. Measured in milligrams per liter rather than micrograms per liter.

i. $\leq (0.944)(e(1.128[\ln(\text{hardness})]-3.828))$ at hardness = 100. Conversion factor (CF) of 0.944 is hardness dependent. CF is calculated for other hardnesses as follows: CF = 1.136672 - [(ln hardness) (0.041838)].

j. $\leq (0.909)(e(0.7852[\ln(\text{hardness})]-3.490))$ at hardness = 100. Conversions factor (CF) of 0.909 is hardness dependent. CF is calculated for other hardnesses as follows: CF = 1.101672 - [(ln hardness)(0.041838)].

k. Criterion based on dissolved chloride in association with sodium. This criterion probably will not be adequately protective when the chloride is associated with potassium, calcium, or magnesium, rather than sodium.

l. Salinity dependent effects. At low salinity the 1-hour average may not be sufficiently protective.

m. $\leq (0.316)e^{(0.8190[\ln(\text{hardness})] + 3.688)}$

n. $\leq (0.860)e^{(0.8190[\ln(\text{hardness})] + 1.561)}$

o. $\leq (0.960)(e^{(0.9422[\ln(\text{hardness})] - 1.464)})$

p. $\leq (0.960)(e^{(0.8545[\ln(\text{hardness})] - 1.465)})$

q. $\leq (0.791)(e^{(1.273[\ln(\text{hardness})] - 1.460)})$ at hardness = 100. Conversion factor (CF) of 0.791 is hardness dependent. CF is calculated for other hardnesses as follows: CF = 1.46203 - [(ln hardness)(0.145712)].

r. $\leq (0.791)(e^{(1.273[\ln(\text{hardness})] - 4.705)})$ at hardness = 100. Conversion factor (CF) of 0.791 is hardness dependent. CF is calculated for other hardnesses as follows: CF = 1.46203 - [(ln hardness)(0.145712)].

s. If the four-day average chronic concentration is exceeded more than once in a three-year period, the edible portion of the consumed species should be analyzed. Said edible tissue concentrations shall not be allowed to exceed 1.0 mg/kg of methylmercury.

t. $\leq (0.998)(e^{(0.8460[\ln(\text{hardness})] + 3.3612)})$

u. $\leq (0.997)(e^{(0.8460[\ln(\text{hardness})] + 1.1645)})$

v. $\leq e^{[1.005(pH) - 5.290]}$

w. $\leq e^{[1.005(pH) - 4.830]}$

x. The status of the fish community should be monitored whenever the concentration of selenium exceeds 5.0 ug/ l in salt water.

y. $\leq (0.85)(e^{(1.72[\ln(\text{hardness})] - 6.52)})$

z. Channel Catfish may be more acutely sensitive.

aa. $\leq (0.978)(e^{(0.8473[\ln(\text{hardness})] + 0.8604)})$

bb. $\leq (0.986)(e^{(0.8473[\ln(\text{hardness})] + 0.7614)})$

cc. Nonlethal effects (growth, C-14 uptake, and chlorophyll production) to diatoms (*Thalassiosira aestivalis* and *Skeletonema costatum*) which are common to Washington's waters have been noted at levels below the established criteria. The importance of these effects to the diatom populations and the aquatic system is sufficiently in question to persuade the state to adopt the USEPA National Criteria value (36 µg/L) as the state threshold criteria, however, wherever practical the ambient concentrations should not be allowed to exceed a chronic marine concentration of 21 µg/L.

dd. These ambient criteria in the table are for the dissolved fraction. The cyanide criteria are based on the weak acid dissociable method. The metals criteria may not be used to calculate total recoverable effluent limits unless the seasonal partitioning of the dissolved to total metals in the ambient water are known. When this information is absent, these metals criteria shall be applied as total recoverable values, determined by back-calculation, using the conversion factors incorporated in the criterion equations. Metals criteria may be adjusted on a site-specific basis when data are made available to the department clearly demonstrating the effective use of the water effects ratio approach established by USEPA, as generally guided by the procedures in USEPA Water Quality Standards Handbook, December 1983, as supplemented or replaced by USEPA or ecology. Information which is used to develop effluent limits based on applying metals partitioning studies or the water effects ratio approach shall be identified in the permit fact sheet developed pursuant to WAC 173-220-060 or 173-226-110, as appropriate, and shall be made available for the public comment period required pursuant to WAC 173-220-050 or 173-226-130(3), as appropriate. Ecology has developed supplemental guidance for conducting water effect ratio studies.

ee. The criteria for cyanide is based on the weak acid dissociable method in the 17th Ed. Standard Methods for the Examination of Water and Wastewater, 4500-CN I, and as revised (see footnote dd, above).

ff. These criteria are based on the total-recoverable fraction of the metal.

gg. Where methods to measure trivalent chromium are unavailable, these criteria are to be represented by total-recoverable chromium.

hh. The listed fresh water criteria are based on unionized or total ammonia concentrations, while those for marine water are based on total ammonia concentrations. Tables for the conversion of total ammonia to un-ionized ammonia for freshwater can be found in the USEPA's Quality Criteria for Water, 1986. Criteria concentrations based on total ammonia for marine water can be found in USEPA Ambient Water Quality Criteria for Ammonia (Saltwater)-1989, EPA440/5-88-004, April 1989.

ii. The conversion factor used to calculate the dissolved metal concentration was 0.982.

jj. The conversion factor used to calculate the dissolved metal concentration was 0.962.

kk. The conversion factor used to calculate the dissolved metal concentration was 0.85.

ll. Marine conversion factors (CF) which were used for calculating dissolved metals concentrations are given below. Conversion factors are applicable to both acute and chronic criteria for all metals except mercury. The CF for mercury was applied to the acute criterion only and is not applicable to the chronic criterion. Conversion factors are already incorporated into the criteria in the table. Dissolved criterion = criterion x CF

Metal	CF
Arsenic	1.000
Cadmium	0.994
Chromium (VI)	0.993
Copper	0.83
Lead	0.951
Mercury	0.85
Nickel	0.990
Selenium	0.998
Silver	0.85
Zinc	0.946

mm. The cyanide criteria are: 2.8μg/l chronic and 9.1μg/l acute and are applicable only to waters which are east of a line from Point Roberts to Lawrence Point, to Green Point to Deception Pass; and south from Deception Pass and of a line from Partridge Point to Point Wilson. The chronic criterion applicable to the remainder of the marine waters is l μg/L.

(4) USEPA Quality Criteria for Water, 1986, as revised, shall be used in the use and interpretation of the values listed in subsection (3) of this section.

(5) Concentrations of toxic, and other substances with toxic propensities not listed in subsection (3) of this section shall be determined in consideration of USEPA Quality Criteria for Water, 1986, and as revised, and other relevant information as appropriate. Human health-based water quality criteria used by the state are contained in 40 CFR 131.36 (known as the National Toxics Rule).

(6) Risk-based criteria for carcinogenic substances shall be selected such that the upper-bound excess cancer risk is less than or equal to one in one million.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), amended and recodified as § 173-201A-240, filed 7/1/03, effective 8/1/03. Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-040, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-040, filed 11/25/92, effective 12/26/92.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 173-201A-250 Radioactive substances. (1) Deleterious concentrations of radioactive materials for all classes shall be as determined by the lowest practicable concentration attainable and in no case shall exceed:

(a) 1/12.5 of the values listed in WAC 246-221-290 (Column 2, Table II, effluent concentrations, rules and regulations for radiation protection); or

(b) USEPA Drinking Water Regulations for radionuclides, as published in the Federal Register of July 9, 1976, or subsequent revisions thereto.

(2) Nothing in this chapter shall be interpreted to be applicable to those aspects of governmental regulation of radioactive waters which have been preempted from state regulation by the Atomic Energy Act of 1954, as amended, as interpreted by the United States Supreme Court in the cases of *Northern States Power Co. v. Minnesota 405 U.S. 1035 (1972) and Train v. Colorado Public Interest Research Group, 426 U.S. 1 (1976).*

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), recodified as § 173-201A-250, filed 7/1/03, effective 8/1/03. Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-050, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-050, filed 11/25/92, effective 12/26/92.]

WAC 173-201A-260 Natural conditions and other water quality criteria and applications. (1) **Natural and irreversible human conditions.**

(a) It is recognized that portions of many water bodies cannot meet the assigned criteria due to the natural conditions of the water body. When a water body does not meet its assigned criteria due to natural climatic or landscape attributes, the natural conditions constitute the water quality criteria.

(b) When a water body does not meet its assigned criteria due to human structural changes that cannot be effectively remedied (as determined consistent with the federal regulations at 40 CFR 131.10), then alternative estimates of the attainable water quality conditions, plus any further allowances for human effects specified in this chapter for when natural conditions exceed the criteria, may be used to establish an alternative criteria for the water body (see WAC 173-201A-440).

(2) **Toxics and aesthetics criteria.** The following narrative criteria apply to all existing and designated uses for fresh and marine water:

(a) Toxic, radioactive, or deleterious material concentrations must be below those which have the potential, either singularly or cumulatively, to adversely affect characteristic water uses, cause acute or chronic conditions to the most sensitive biota dependent upon those waters, or adversely affect public health (see WAC 173-201A-240, toxic substances, and 173-201A-250, radioactive substances).

(b) Aesthetic values must not be impaired by the presence of materials or their effects, excluding those of natural origin, which offend the senses of sight, smell, touch, or taste (see WAC 173-201A-230 for guidance on establishing lake nutrient standards to protect aesthetics).

(3) **Procedures for applying water quality criteria.** In applying the appropriate water quality criteria for a water, the department will use the following procedure:

(a) The department will establish water quality requirements for water bodies, in addition to those specifically listed in this chapter, on a case-specific basis where determined necessary to provide full support for designated and existing uses.

(b) Upstream actions must be conducted in manners that meet downstream water body criteria. Except where and to the extent described otherwise in this chapter, the criteria associated with the most upstream uses designated for a water body are to be applied to headwaters to protect nonfish aquatic species and the designated downstream uses.

(c) Where multiple criteria for the same water quality parameter are assigned to a water body to protect different uses, the most stringent criterion for each parameter is to be applied.

(d) At the boundary between water bodies protected for different uses, the more stringent criteria apply.

(e) In brackish waters of estuaries, where different criteria for the same use occurs for fresh and marine waters, the decision to use the fresh water or the marine water criteria must be selected and applied on the basis of vertically averaged daily maximum salinity, referred to below as "salinity."

(i) The fresh water criteria must be applied at any point where ninety-five percent of the salinity values are less than or equal to one part per thousand, except that the fresh water criteria for bacteria applies when the salinity is less than ten parts per thousand; and

(ii) The marine water criteria must apply at all other locations where the salinity values are greater than one part per thousand, except that the marine criteria for bacteria applies when the salinity is ten parts per thousand or greater.

(f) Numeric criteria established in this chapter are not intended for application to human created waters managed primarily for the removal or containment of pollution. This special provision also includes private farm ponds created from upland sites that did not incorporate natural water bodies.

(i) Waters covered under this provision must be managed so that:

(A) They do not create unreasonable risks to human health or uses of the water; and

(B) Discharges from these systems meet down gradient surface and ground water quality standards.

(ii) This provision does not apply to waterways designed and managed primarily to convey or transport water from one location to another, rather than to remove pollution en route.

(g) When applying the numeric criteria established in this chapter, the department will give consideration to the precision and accuracy of the sampling and analytical methods used, as well as the existing conditions at the time.

(h) The analytical testing methods for these numeric criteria must be in accordance with the "*Guidelines Establishing Test Procedures for the Analysis of Pollutants*" (*40 CFR Part 136*) or superseding methods published. The department may also approve other methods following consultation with adjacent states and with the approval of the USEPA.

(i) The primary means for protecting water quality in wetlands is through implementing the antidegradation procedures described in Part III of this chapter.

(i) In addition to designated uses, wetlands may have existing beneficial uses that are to be protected that include ground water exchange, shoreline stabilization, and storm water attenuation.

(ii) Water quality in wetlands is maintained and protected by maintaining the hydrologic conditions, hydrophytic vegetation, and substrate characteristics necessary to support existing and designated uses.

(iii) Wetlands must be delineated using the *Washington State Wetlands Identification and Delineation Manual*, in accordance with WAC 173-22-035.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-260, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-300 Description. (1) The antidegradation policy is guided by chapter 90.48 RCW, Water Pollution Control Act, chapter 90.54 RCW, Water Resources Act of 1971, and 40 CFR 131.12.

(2) The purpose of the antidegradation policy is to:

(a) Restore and maintain the highest possible quality of the surface waters of Washington;

(b) Describe situations under which water quality may be lowered from its current condition;

(c) Apply to human activities that are likely to have an impact on the water quality of a surface water;

(d) Ensure that all human activities that are likely to contribute to a lowering of water quality, at a minimum, apply all known, available, and reasonable methods of prevention, control, and treatment (AKART); and

(e) Apply three levels of protection for surface waters of the state, as generally described below:

(i) Tier I is used to ensure existing and designated uses are maintained and protected and applies to all waters and all sources of pollution.

(ii) Tier II is used to ensure that waters of a higher quality than the criteria assigned in this chapter are not degraded unless such lowering of water quality is necessary and in the overriding public interest. Tier II applies only to a specific list of polluting activities.

(iii) Tier III is used to prevent the degradation of waters formally listed in this chapter as "outstanding resource waters," and applies to all sources of pollution.

(3) **Habitat restoration.** Both temporary harm and permanent loss of existing uses may be allowed by the department where determined necessary to secure greater ecological benefits through major habitat restoration projects designed to return the natural physical structure and associated uses to a water body where the structure has been altered through human action.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-300, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-310 Tier I—Protection and maintenance of existing and designated uses. (1) Existing and designated uses must be maintained and protected. No degradation may be allowed that would interfere with, or become injurious to, existing or designated uses, except as provided for in this chapter.

(2) For waters that do not meet assigned criteria, or protect existing or designated uses, the department will take appropriate and definitive steps to bring the water quality back into compliance with the water quality standards.

(3) Whenever the natural conditions of a water body are of a lower quality than the assigned criteria, the natural conditions constitute the water quality criteria. Where water quality criteria are not met because of natural conditions, human actions are not allowed to further lower the water quality, except where explicitly allowed in this chapter.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-310, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-320 Tier II—Protection of waters of higher quality than the standards. (1) Whenever a water quality constituent is of a higher quality than a criterion designated for that water under this chapter, new or expanded

actions within the categories identified in subsection (2) of this section that are expected to cause a measurable change in the quality of the water (see subsection (3) of this section) may not be allowed unless the department determines that the lowering of water quality is necessary and in the overriding public interest (see subsection (4) of this section).

(2) A Tier II review will only be conducted for new or expanded actions conducted under the following authorizations. Public involvement with the Tier II review will be conducted in accordance with the public involvement processes associated with these actions.

(a) National Pollutant Discharge Elimination System (NPDES) waste discharge permits;

(b) State waste discharge permits to surface waters;

(c) Federal Clean Water Act Section 401 water quality certifications; and

(d) Other water pollution control programs authorized, implemented, or administered by the department.

(3) **Definition of measurable change.** To determine that a lowering of water quality is necessary and in the overriding public interest, an analysis must be conducted for new or expanded actions when the resulting action has the potential to cause a measurable change in the physical, chemical, or biological quality of a water body. Measurable changes will be determined based on an estimated change in water quality at a point outside the source area, after allowing for mixing consistent with WAC 173-201A-400(7). In the context of this regulation, a measurable change includes a:

(a) Temperature increase of 0.3°C or greater;

(b) Dissolved oxygen decrease of 0.2 mg/L or greater;

(c) Bacteria level increase of 2 cfu/100 mL or greater;

(d) pH change of 0.1 units or greater;

(e) Turbidity increase of 0.5 NTU or greater; or

(f) Any detectable increase in the concentration of a toxic or radioactive substance.

(4) **Necessary and overriding public interest determinations.** Once an activity has been determined to cause a measurable lowering in water quality, then an analysis must be conducted to determine if the lowering of water quality is necessary and in the overriding public interest. Information to conduct the analysis must be provided by the applicant seeking the authorization, or by the department in developing a general permit or pollution control program, and must include:

(a) A statement of the benefits and costs of the social, economic, and environmental effects associated with the lowering of water quality. This information will be used by the department to determine if the lowering of water quality is in the overriding public interest. Examples of information that can assist in this determination include:

(i) Economic benefits such as creating or expanding employment, increasing median family income, or increasing the community tax base;

(ii) Providing or contributing to necessary social services;

(iii) The use and demonstration of innovative pollution control and management approaches that would allow a significant improvement in AKART for a particular industry or category of action;

(iv) The prevention or remediation of environmental or public health threats;

(v) The societal and economic benefits of better health protection;

(vi) The preservation of assimilative capacity for future industry and development; and

(vii) The benefits associated with high water quality for uses such as fishing, recreation, and tourism.

(b) Information that identifies and selects the best combination of site, structural, and managerial approaches that can be feasibly implemented to prevent or minimize the lowering of water quality. This information will be used by the department to determine if the lowering of water quality is necessary. Examples that may be considered as alternatives include:

(i) Pollution prevention measures (such as changes in plant processes, source reduction, and substitution with less toxic substances);

(ii) Recycle/reuse of waste by-products or production materials and fluids;

(iii) Application of water conservation methods;

(iv) Alternative or enhanced treatment technology;

(v) Improved operation and maintenance of existing treatment systems;

(vi) Seasonal or controlled discharge options to avoid critical conditions of water quality;

(vii) Establishing buffer areas with effective limits on activities;

(viii) Land application or infiltration to capture pollutants and reduce surface runoff, on-site treatment, or alternative discharge locations;

(ix) Water quality offsets as described in WAC 173-201A-450.

(5) The department retains the discretion to require that the applicant examine specific alternatives, or that additional information be provided to conduct the analysis.

(6) General permit and water pollution control programs are developed for a category of dischargers that have similar processes and pollutants. New or reissued general permits or other water pollution control programs authorized, implemented, or administered by the department will undergo an analysis under Tier II at the time the department develops and approves the general permit or program.

(a) Individual activities covered under these general permits or programs will not require a Tier II analysis.

(b) The department will describe in writing how the general permit or control program meets the antidegradation requirements of this section.

(c) The department recognizes that many water quality protection programs and their associated control technologies are in a continual state of improvement and development. As a result, information regarding the existence, effectiveness, or costs of control practices for reducing pollution and meeting the water quality standards may be incomplete. In these instances, the antidegradation requirements of this section can be considered met for general permits and programs that have a formal process to select, develop, adopt, and refine control practices for protecting water quality and meeting the intent of this section. This adaptive process must:

(i) Ensure that information is developed and used expeditiously to revise permit or program requirements;

(ii) Review and refine management and control programs in cycles not to exceed five years or the period of permit reissuance; and

(iii) Include a plan that describes how information will be obtained and used to ensure full compliance with this chapter. The plan must be developed and documented in advance of permit or program approval under this section.

(7) All authorizations under this section must still comply with the provisions of Tier I (WAC 173-201A-310).

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-320, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-330 Tier III—Protection of outstanding resource waters. Where a high quality water is designated as an outstanding resource water, the water quality and uses of those waters must be maintained and protected. As part of the public process, a qualifying water body may be designated as Tier III(A) which prohibits any and all future degradation, or Tier III(B) which allows for de minimis (below measurable amounts) degradation from well-controlled activities.

(1) To be eligible for designation as an outstanding resource water in Washington, one or more of the following must apply:

(a) The water is in a relatively pristine condition (largely absent human sources of degradation) or possesses exceptional water quality, and also occurs in federal and state parks, monuments, preserves, wildlife refuges, wilderness areas, marine sanctuaries, estuarine research reserves, or wild and scenic rivers;

(b) The water has unique aquatic habitat types (for example, peat bogs) that by conventional water quality parameters (such as dissolved oxygen, temperature, or sediment) are not considered high quality, but that are unique and regionally rare examples of their kind;

(c) The water has both high water quality and regionally unique recreational value;

(d) The water is of exceptional statewide ecological significance; or

(e) The water has cold water thermal refuges critical to the long-term protection of aquatic species. For this type of outstanding resource water, the nondegradation protection would apply only to temperature and dissolved oxygen.

(2) Any water or portion thereof that meets one or more of the conditions described in subsection (1) of this section may be designated for protection as an outstanding resource water. A request for designation may be made by the department or through public nominations that are submitted to the department in writing and that include sufficient information to show how the water body meets the appropriate conditions identified in this section.

(3) After receiving a request for outstanding resource water designation, the department will:

(a) Respond within sixty days of receipt with a decision on whether the submitted information demonstrates that the water body meets the eligibility requirements for an outstanding resource water. If the submitted information demonstrates that the water body meets the eligibility requirements, the department will schedule a review of the nominated water for designation as an outstanding resource water. The review will include a public process and consultation with recognized tribes in the geographic vicinity of the water.

(b) In determining whether or not to designate an outstanding resource water, the department will consider factors relating to the difficulty of maintaining the current quality of the water body. Outstanding resource waters should not be designated where substantial and imminent social or economic impact to the local community will occur, unless local public support is overwhelmingly in favor of the designation. The department will carefully weigh the level of support from the public and affected governments in assessing whether or not to designate the water as an outstanding resource water.

(c) After considering public comments and weighing public support for the proposal, the department will make a final determination on whether a nominated water body should be adopted into this chapter as an outstanding resource water.

(4) A designated outstanding resource water will be maintained and protected from all degradation, except for the following situations:

(a) Temporary actions that are necessary to protect the public interest as approved by the department.

(b) Treatment works bypasses for sewage, waste, and stormwater are allowed where such a bypass is unavoidable to prevent the loss of life, personal injury, or severe property damage, and no feasible alternatives to the bypass exist.

(c) Response actions taken in accordance with the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, or similar federal or state authorities, to alleviate a release into the environment of substances which may pose an imminent and substantial danger to public health or welfare.

(d) The sources of degradation are from atmospheric deposition.

(5) Outstanding resources waters can be designated for either Tier III(A) or Tier III(B) protection.

(a) Tier III(A) is the highest level of protection and allows no further degradation after the waters have been formally designated Tier III(A) under this chapter.

(b) Tier III(B) is the second highest level of protection for outstanding resource waters and conditionally allows minor degradation to occur due to highly controlled actions. The requirements for Tier III(B) are as follows:

(i) To meet the goal for maintaining and protecting the quality of Tier III(B) waters, sources of pollution, considered individually and cumulatively, are not to cause measurable degradation of the water body.

(ii) Regardless of the quality of the water body, all new or expanded point sources of pollution in Tier III(B) waters must use applicable advanced waste treatment and control techniques that reasonably represent the state of the art and must minimize the degradation of water quality to nonmeasurable levels where total elimination is not feasible. Nonpoint sources must use all applicable structural and nonstructural BMPs with the goal of reducing the degradation of water quality to nonmeasurable levels where total elimination is not feasible.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-330, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-400 Mixing zones. (1) The allowable size and location of a mixing zone and the associated effluent limits shall be established in discharge permits, general permits, or orders, as appropriate.

(2) A discharger shall be required to fully apply AKART prior to being authorized a mixing zone.

(3) Mixing zone determinations shall consider critical discharge conditions.

(4) No mixing zone shall be granted unless the supporting information clearly indicates the mixing zone would not have a reasonable potential to cause a loss of sensitive or important habitat, substantially interfere with the existing or characteristic uses of the water body, result in damage to the ecosystem, or adversely affect public health as determined by the department.

(5) Water quality criteria shall not be violated outside of the boundary of a mixing zone as a result of the discharge for which the mixing zone was authorized.

(6) The size of a mixing zone and the concentrations of pollutants present shall be minimized.

(7) The maximum size of a mixing zone shall comply with the following:

(a) In rivers and streams, mixing zones, singularly or in combination with other mixing zones, shall comply with the most restrictive combination of the following (this size limitation may be applied to estuaries having flow characteristics that resemble rivers):

(i) Not extend in a downstream direction for a distance from the discharge port(s) greater than three hundred feet plus the depth of water over the discharge port(s), or extend upstream for a distance of over one hundred feet;

(ii) Not utilize greater than twenty-five percent of the flow; and

(iii) Not occupy greater than twenty-five percent of the width of the water body.

(b) In estuaries, mixing zones, singularly or in combination with other mixing zones, shall:

(i) Not extend in any horizontal direction from the discharge port(s) for a distance greater than two hundred feet plus the depth of water over the discharge port(s) as measured during mean lower low water; and

(ii) Not occupy greater than twenty-five percent of the width of the water body as measured during mean lower low water. For the purpose of this section, areas to the east of a line from Green Point (Fidalgo Island) to Lawrence Point (Orcas Island) are considered estuarine, as are all of the Strait of Georgia and the San Juan Islands north of Orcas Island. To the east of Deception Pass, and to the south and east of Admiralty Head, and south of Point Wilson on the Quimper Peninsula, is Puget Sound proper, which is considered to be entirely estuarine. All waters existing within bays from Point Wilson westward to Cape Flattery and south to the North Jetty of the Columbia River shall also be categorized as estuarine.

(c) In oceanic waters, mixing zones, singularly or in combination with other mixing zones, shall not extend in any horizontal direction from the discharge port(s) for a distance greater than three hundred feet plus the depth of water over the discharge port(s) as measured during mean lower low water. For the purpose of this section, all marine waters not classified as estuarine in (b)(ii) of this subsection shall be categorized as oceanic.

(d) In lakes, and in reservoirs having a mean detention time greater than fifteen days, mixing zones shall not be allowed unless it can be demonstrated to the satisfaction of the department that:

(i) Other siting, technological, and managerial options that would avoid the need for a lake mixing zone are not reasonably achievable;

(ii) Overriding considerations of the public interest will be served; and

(iii) All technological and managerial methods available for pollution reduction and removal that are economically achievable would be implemented prior to discharge. Such methods may include, but not be limited to, advanced waste treatment techniques.

(e) In lakes, and in reservoirs having a mean detention time greater than fifteen days, mixing zones, singularly or in combination with other mixing zones, shall comply with the most restrictive combination of the following:

(i) Not exceed ten percent of the water body volume;

(ii) Not exceed ten percent of the water body surface area (maximum radial extent of the plume regardless of whether it reaches the surface); and

(iii) Not extend beyond fifteen percent of the width of the water body.

(8) Acute criteria are based on numeric criteria and toxicity tests approved by the department, as generally guided under WAC 173-201A-240 (1) through (5), and shall be met as near to the point of discharge as practicably attainable. Compliance shall be determined by monitoring data or calibrated models approved by the department utilizing representative dilution ratios. A zone where acute criteria may be exceeded is allowed only if it can be demonstrated to the department's satisfaction the concentration of, and duration and frequency of exposure to the discharge, will not create a barrier to the migration or translocation of indigenous organisms to a degree that has the potential to cause damage to the ecosystem. A zone of acute criteria exceedance shall singularly or in combination with other such zones comply with the following maximum size requirements:

(a) In rivers and streams, a zone where acute criteria may be exceeded shall comply with the most restrictive combination of the following (this size limitation may also be applied to estuaries having flow characteristics resembling rivers):

(i) Not extend beyond ten percent of the distance towards the upstream and downstream boundaries of an authorized mixing zone, as measured independently from the discharge port(s);

(ii) Not utilize greater than two and one-half percent of the flow; and

(iii) Not occupy greater than twenty-five percent of the width of the water body.

(b) In oceanic and estuarine waters a zone where acute criteria may be exceeded shall not extend beyond ten percent of the distance established in subsection (7)(b) of this section as measured independently from the discharge port(s).

(9) Overlap of mixing zones.

(a) Where allowing the overlap of mixing zones would result in a combined area of water quality criteria nonattainment which does not exceed the numeric size limits estab-

lished under subsection (7) of this section, the overlap may be permitted if:

(i) The separate and combined effects of the discharges can be reasonably determined; and

(ii) The combined effects would not create a barrier to the migration or translocation of indigenous organisms to a degree that has the potential to cause damage to the ecosystem.

(b) Where allowing the overlap of mixing zones would result in exceedance of the numeric size limits established under subsection (7) of this section, the overlap may be allowed only where:

(i) The overlap qualifies for exemption under subsections (12) and (13) of this section; and

(ii) The overlap meets the requirements established in (a) of this subsection.

(10) Storm water:

(a) Storm water discharge from any "point source" containing "process wastewater" as defined in 40 C.F.R. Part 122.2 shall fully conform to the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section.

(b) Storm water discharges not described by (a) of this subsection may be granted an exemption to the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section, provided the discharger clearly demonstrates to the department's satisfaction that:

(i) All appropriate best management practices established for storm water pollutant control have been applied to the discharge.

(ii) The proposed mixing zone shall not have a reasonable potential to result in a loss of sensitive or important habitat, substantially interfere with the existing or characteristic uses of the water body, result in damage to the ecosystem, or adversely affect public health as determined by the department; and

(iii) The proposed mixing zone shall not create a barrier to the migration or translocation of indigenous organisms to a degree that has the potential to cause damage to the ecosystem.

(c) All mixing zones for storm water discharges shall be based on a volume of runoff corresponding to a design storm approved by the department. Exceedances from the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section due to precipitation events greater than the approved design storm may be allowed by the department, if it would not result in adverse impact to existing or characteristic uses of the water body or result in damage to the ecosystem, or adversely affect public health as determined by the department.

(11) Combined sewer overflows complying with the requirements of chapter 173-245 WAC, may be allowed an average once per year exemption to the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section, provided the discharge complies with subsection (4) of this section.

(12) Exceedances from the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section may be considered by the department in the following cases:

(a) For discharges existing prior to November 24, 1992, (or for proposed discharges with engineering plans formally approved by the department prior to November 24, 1992);

(b) Where altering the size configuration is expected to result in greater protection to existing and characteristic uses;

(c) Where the volume of water in the effluent is providing a greater benefit to the existing or characteristic uses of the water body due to flow augmentation than the benefit of removing the discharge, if such removal is the remaining feasible option; or

(d) Where the exceedance is clearly necessary to accommodate important economic or social development in the area in which the waters are located.

(13) Before an exceedance from the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section may be allowed under subsection (12) of this section, it must clearly be demonstrated to the department's satisfaction that:

(a) AKART appropriate to the discharge is being fully applied;

(b) All siting, technological, and managerial options which would result in full or significantly closer compliance that are economically achievable are being utilized; and

(c) The proposed mixing zone complies with subsection (4) of this section.

(14) Any exemptions granted to the size criteria under subsection (12) of this section shall be reexamined during each permit renewal period for changes in compliance capability. Any significant increase in capability to comply shall be reflected in the renewed discharge permit.

(15) The department may establish permit limits and measures of compliance for human health based criteria (based on lifetime exposure levels), independent of this section.

(16) Sediment impact zones authorized by the department pursuant to chapter 173-204 WAC, Sediment management standards, do not satisfy the requirements of this section.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), amended and recodified as § 173-201A-400, filed 7/1/03, effective 8/1/03. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-100, filed 11/25/92, effective 12/26/92.]

WAC 173-201A-410 Short-term modifications. The criteria and special conditions established in WAC 173-201A-200 through 173-201A-260, 173-201A-602 and 173-201A-612 may be modified for a specific water body on a short-term basis (e.g., actual periods of nonattainment would generally be limited to hours or days rather than weeks or months) when necessary to accommodate essential activities, respond to emergencies, or to otherwise protect the public interest, even though such activities may result in a temporary reduction of water quality conditions.

(1) A short-term modification will:

(a) Be authorized in writing by the department, and conditioned, timed, and restricted in a manner that will minimize degradation of water quality, existing uses, and designated uses;

(b) Be valid for the duration of the activity requiring modification of the criteria and special conditions in WAC

173-201A-200 through 173-201A-260, 173-201A-602 or 173-201A-612, as determined by the department;

(c) Allow degradation of water quality if the degradation does not significantly interfere with or become injurious to existing or designated water uses or cause long-term harm to the environment; and

(d) In no way lessen or remove the proponent's obligations and liabilities under other federal, state, and local rules and regulations.

(2) The department may authorize a longer duration where the activity is part of an ongoing or long-term operation and maintenance plan, integrated pest or noxious weed management plan, water body or watershed management plan, or restoration plan. Such a plan must be developed through a public involvement process consistent with the Administrative Procedure Act (chapter 34.05 RCW) and be in compliance with SEPA, chapter 43.21C RCW, in which case the standards may be modified for the duration of the plan, or for five years, whichever is less. Such long-term plans may be renewed by the department after providing for another opportunity for public and intergovernmental involvement and review.

(3) The department may allow a major watershed restoration activity that will provide greater benefits to the health of the aquatic system in the long-term (examples include removing dams or reconnecting meander channels) that, in the short term, may cause significant impacts to existing or designated uses as a result of the activities to restore the water body and environmental conditions. Authorization will be given in accordance with subsection (2) of this section.

(4) A short-term modification may be issued in writing by the director or his/her designee to an individual or entity proposing the aquatic application of pesticides, including but not limited to those used for control of federally or state listed noxious and invasive species, and excess populations of native aquatic plants, mosquitoes, burrowing shrimp, and fish, subject to the following terms and conditions:

(a) A request for a short-term modification shall be made to the department on forms supplied by the department. Such request shall be made at least thirty days prior to initiation of the proposed activity, and after the project proponent has complied with the requirements of the State Environmental Policy Act (SEPA);

(b) Appropriate public notice as determined and prescribed by the director or his/her designee shall be given, identifying the pesticide, applicator, location where the pesticide will be applied, proposed timing and method of application, and any water use restrictions specified in USEPA label provisions;

(c) The pesticide application shall be made at times so as to:

(i) Minimize public water use restrictions during weekends; and

(ii) Avoid public water use restrictions during the opening week of fishing season, Memorial Day weekend, Independence Day weekend, and Labor Day weekend;

(d) Any additional conditions as may be prescribed by the director or his/her designee.

(5) A short-term modification may be issued for the control or eradication of noxious weeds identified as such in accordance with the state noxious weed control law, chapter 17.10 RCW, and Control of spartina and purple loosestrife, chapter 17.26 RCW. Short-term modifications for noxious weed control shall be included in a water quality permit issued in accordance with RCW 90.48.445, and the following requirements:

(a) The department may issue water quality permits for noxious weed control to the Washington state department of agriculture (WSDA) for the purposes of coordinating and conducting noxious weed control activities consistent with WSDA's responsibilities under chapters 17.10 and 17.26 RCW. Coordination may include noxious weed control activities identified in a WSDA integrated noxious weed management plan and conducted by individual landowners or land managers.

(b) The department may also issue water quality permits to individual landowners or land managers for noxious weed control activities where such activities are not covered by a WSDA integrated noxious weed management plan.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), amended and recodified as § 173-201A-410, filed 7/1/03, effective 8/1/03. Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-110, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-110, filed 11/25/92, effective 12/26/92.]

WAC 173-201A-420 Variance. (1) The criteria established in WAC 173-201A-200 through 173-201A-260 may be modified for individual facilities, or stretches of waters, through the use of a variance. Variances may be approved by the department when:

(a) The modification is consistent with the requirements of federal law (currently 40 CFR 131.10(g) and 131.10(h));

(b) The water body is assigned variances for specific criteria and all other applicable criteria must be met; and

(c) Reasonable progress is being made toward meeting the original criteria.

(2) The decision to approve a variance is subject to a public and intergovernmental involvement process.

(3) The department may issue a variance for up to five years, and may renew the variance after providing for another opportunity for public and intergovernmental involvement and review.

(4) Variances are not in effect until they have been incorporated into this chapter and approved by the USEPA.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-420, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-430 Site-specific criteria. (1) Where the attainable condition of existing and designated uses for the water body would be fully protected using an alternative criterion, site-specific criteria may be adopted.

(a) The site-specific criterion must be consistent with the federal regulations on designating and protecting uses (currently 40 CFR 131.10 and 131.11); and

(b) The decision to approve a site-specific criterion must be subject to a public involvement and intergovernmental coordination process.

(2) The site-specific analyses for the development of a new water quality criterion must be conducted in a manner that is scientifically justifiable and consistent with the assumptions and rationale in "*Guidelines for Deriving*

National Water Quality Criteria for the Protection of Aquatic Organisms and their Uses," EPA 1985; and conducted in accordance with the procedures established in the "*Water Quality Standards Handbook*," EPA 1994, as revised.

(3) The decision to approve the site-specific criterion must be based on a demonstration that it will protect the existing and attainable uses of the water body.

(4) Site-specific criteria are not in effect until they have been incorporated into this chapter and approved by the USEPA.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-430, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-440 Use attainability analysis. (1) Removal of a designated use for a water body assigned in this chapter must be based on a use attainability analysis (UAA). A UAA is a structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors. A use can only be removed through a UAA if it is not existing or attainable.

(2) A UAA proposing to remove a designated use on a water body must be submitted to the department in writing and include sufficient information to demonstrate that the use is neither existing nor attainable.

(3) A UAA must be consistent with the federal regulations on designating and protecting uses (currently 40 CFR 131.10).

(4) Subcategories of use protection that reflect the lower physical potential of the water body for protecting designated uses must be based upon federal regulations (currently 40 CFR 131.10(c)).

(5) Allowing for seasonal uses where doing so would not harm existing or designated uses occurring in that or another season must be based upon federal regulations (currently 40 CFR 131.10(f)).

(6) After receiving a proposed UAA, the department will respond within sixty days of receipt with a decision on whether to proceed toward rule making.

(7) The decision to approve a UAA is subject to a public involvement and intergovernmental coordination process, including tribal consultation.

(8) The department will maintain a list of federally recognized tribes in the state of Washington. During all stages of development and review of UAA proposals, the department will provide notice and consult with representatives of the interested affected Indian tribes on a government-to-government basis, and carefully consider their recommendations.

(9) The results of a UAA are not in effect until they have been incorporated into this chapter and approved by the USEPA.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-440, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-450 Water quality offsets. (1) A water quality offset occurs where a project proponent implements or finances the implementation of controls for point or nonpoint sources to reduce the levels of pollution for the purpose of creating sufficient assimilative capacity to allow new or expanded discharges. The purpose of water quality offsets is to sufficiently reduce the pollution levels of a water body so that a proponent's actions do not cause or contribute to a violation of the requirements of this chapter and so that they result in a net environmental benefit. Water quality offsets may be used to assist an entity in meeting load allocations targeted under a pollution reduction analysis (such as a total maximum daily load) as established by the department. Water quality offsets may be used to reduce the water quality effect of a discharge to levels that are unmeasurable and in compliance with the water quality antidegradation Tier II analysis (WAC 173-201A-320).

(2) Water quality offsets may be allowed by the department when all of the following conditions are met:

(a) Water quality offsets must target specific water quality parameters.

(b) The improvements in water quality associated with creating water quality offsets for any proposed new or expanded actions must be demonstrated to have occurred in advance of the proposed action.

(c) The technical basis and methodology for the water quality offsets is documented through a technical analysis of pollutant loading, and that analysis is made available for review by the department. The methodology must incorporate the uncertainties associated with any proposed point or nonpoint source controls as well as variability in effluent quality for sources, and must demonstrate that an appropriate margin of safety is included. The approach must clearly account for the attenuation of the benefits of pollution controls as the water moves to the location where the offset is needed.

(d) Point or nonpoint source pollution controls must be secured using binding legal instruments between any involved parties for the life of the project that is being offset. The proponent remains solely responsible for ensuring the success of offsetting activities for both compliance and enforcement purposes.

(e) Only the proportion of the pollution controls which occurs beyond existing requirements for those sources can be included in the offset allowance.

(f) Water quality offsets must meet antidegradation requirements in WAC 173-201A-300 through 173-201A-330 and federal antibacksliding requirements in CFR 122.44(l).

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-450, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-500 Achievement considerations. To fully achieve and maintain the foregoing water quality in the state of Washington, it is the intent of the department to apply the various implementation and enforcement authorities at its disposal, including participation in the programs of the federal Clean Water Act (33 U.S.C. 1251 et seq.) as appropriate. It is also the intent that cognizance will be taken of the need for participation in cooperative programs with other state agencies and private groups with respect to the management of related problems. The department's planned program for water pollution control will be defined and revised annually in accordance with section 106 of said federal act. Further, it shall be required that all activities which discharge wastes into waters within the state, or otherwise adversely affect the quality of said waters, be in compliance with the waste treatment and discharge provisions of state or federal law.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), recodified as § 173-201A-500, filed 7/1/03, effective 8/1/03. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-150, filed 11/25/92, effective 12/26/92.]

WAC 173-201A-510 Means of implementation. (1) **Permitting.** The primary means to be used for controlling municipal, commercial, and industrial waste discharges shall be through the issuance of waste discharge permits, as provided for in RCW 90.48.160, 90.48.162, and 90.48.260. Waste discharge permits, whether issued pursuant to the National Pollutant Discharge Elimination System or otherwise, must be conditioned so the discharges authorized will meet the water quality standards. No waste discharge permit can be issued that causes or contributes to a violation of water quality criteria, except as provided for in this chapter.

(a) Persons discharging wastes in compliance with the terms and conditions of permits are not subject to civil and criminal penalties on the basis that the discharge violates water quality standards.

(b) Permits must be modified by the department when it is determined that the discharge causes or contributes to a violation of water quality standards. Major modification of permits is subject to review in the same manner as the originally issued permits.

(2) **Miscellaneous waste discharge or water quality effect sources.** The director shall, through the issuance of regulatory permits, directives, and orders, as are appropriate, control miscellaneous waste discharges and water quality effect sources not covered by subsection (1) of this section.

(3) **Nonpoint source and storm water pollution.**

(a) Activities which generate nonpoint source pollution shall be conducted so as to comply with the water quality standards. The primary means to be used for requiring compliance with the standards shall be through best management practices required in waste discharge permits, rules, orders, and directives issued by the department for activities which generate nonpoint source pollution.

(b) Best management practices shall be applied so that when all appropriate combinations of individual best management practices are utilized, violation of water quality criteria shall be prevented. If a discharger is applying all best management practices appropriate or required by the department and a violation of water quality criteria occurs, the discharger shall modify existing practices or apply further water pollution control measures, selected or approved by the department, to achieve compliance with water quality criteria. Best management practices established in permits, orders, rules, or directives of the department shall be reviewed and modified, as appropriate, so as to achieve compliance with water quality criteria.

(c) Activities which contribute to nonpoint source pollution shall be conducted utilizing best management practices to prevent violation of water quality criteria. When applicable best management practices are not being implemented, the department may conclude individual activities are causing pollution in violation of RCW 90.48.080. In these situations, the department may pursue orders, directives, permits, or civil or criminal sanctions to gain compliance with the standards.

(d) Activities which cause pollution of storm water shall be conducted so as to comply with the water quality standards. The primary means to be used for requiring compliance with the standards shall be through best management practices required in waste discharge permits, rules, orders, and directives issued by the department for activities which generate storm water pollution. The consideration and control procedures in (b) and (c) of this subsection apply to the control of pollutants in storm water.

(4) **General allowance for compliance schedules.**

(a) Permits, orders, and directives of the department for existing discharges may include a schedule for achieving compliance with water quality criteria contained in this chapter. Such schedules of compliance shall be developed to ensure final compliance with all water quality-based effluent limits in the shortest practicable time. Decisions regarding whether to issue schedules of compliance will be made on a case-by-case basis by the department. Schedules of compliance may not be issued for new discharges. Schedules of compliance may be issued to allow for: (i) Construction of necessary treatment capability; (ii) implementation of necessary best management practices; (iii) implementation of additional storm water best management practices for discharges determined not to meet water quality criteria following implementation of an initial set of best management practices; (iv) completion of necessary water quality studies; or (v) resolution of a pending water quality standards' issue through rule-making action.

(b) For the period of time during which compliance with water quality criteria is deferred, interim effluent limitations shall be formally established, based on the best professional judgment of the department. Interim effluent limitations may be numeric or nonnumeric (e.g., construction of necessary facilities by a specified date as contained in an ecology order or permit).

(c) Prior to establishing a schedule of compliance, the department shall require the discharger to evaluate the possibility of achieving water quality criteria via nonconstruction changes (e.g., facility operation, pollution prevention). Schedules of compliance may in no case exceed ten years, and shall generally not exceed the term of any permit.

(5) **Compliance schedules for dams:**

(a) All dams in the state of Washington must comply with the provisions of this chapter.

(b) For dams that cause or contribute to a violation of the water quality standards, the dam owner must develop a water quality attainment plan that provides a detailed strategy for achieving compliance. The plan must include:

(i) A compliance schedule that does not exceed ten years;

(ii) Identification of all reasonable and feasible improvements that could be used to meet standards, or if meeting the standards is not attainable, then to achieve the highest attainable level of improvement;

(iii) Any department-approved gas abatement plan as described in WAC 173-201A-200 (1)(f)(ii);

(iv) Analytical methods that will be used to evaluate all reasonable and feasible improvements;

(v) Water quality monitoring, which will be used by the department to track the progress in achieving compliance with the state water quality standards; and

(vi) Benchmarks and reporting sufficient for the department to track the applicant's progress toward implementing the plan within the designated time period.

(c) The plan must ensure compliance with all applicable water quality criteria, as well as any other requirements established by the department (such as through a total maximum daily load, or TMDL, analysis).

(d) If the department is acting on an application for a water quality certification, the approved water quality attainment plan may be used by the department in its determination that there is reasonable assurance that the dam will not cause or contribute to a violation of the water quality standards.

(e) When evaluating compliance with the plan, the department will allow the use of models and engineering estimates to approximate design success in meeting the standards.

(f) If reasonable progress toward implementing the plan is not occurring in accordance with the designated time frame, the department may declare the project in violation of the water quality standards and any associated water quality certification.

(g) If an applicable water quality standard is not met by the end of the time provided in the attainment plan, or after completion of all reasonable and feasible improvements, the owner must take the following steps:

(i) Evaluate any new reasonable and feasible technologies that have been developed (such as new operational or structural modifications) to achieve compliance with the standards, and develop a new compliance schedule to evaluate and incorporate the new technology;

(ii) After this evaluation, if no new reasonable and feasible improvements have been identified, then propose an alternative to achieve compliance with the standards, such as site specific criteria (WAC 173-201A-430), a use attainability analysis (WAC 173-201A-440), or a water quality offset (WAC 173-201A-450).

(h) New dams, and any modifications to existing facilities that do not comply with a gas abatement or other pollution control plan established to meet criteria for the water body, must comply with the water quality standards at the time of project completion.

(i) Structural changes made as a part of a department approved gas abatement plan to aid fish passage, described in WAC 173-201A-200 (1)(f)(ii), may result in system performance limitations in meeting water quality criteria for that parameter at other times of the year.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), amended and recodified as § 173-201A-510, filed 7/1/03, effective 8/1/03. Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-160, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-160, filed 11/25/92, effective 12/26/92.]

WAC 173-201A-520 Monitoring and compliance. A continuing surveillance program, to ascertain whether the regulations, waste disposal permits, orders, and directives promulgated and/or issued by the department are being complied with, will be conducted by the department staff as follows:

(1) Inspecting treatment and control facilities.

(2) Monitoring and reporting waste discharge characteristics.

(3) Monitoring receiving water quality.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), Amended and recodified as § 173-201A-520, filed 7/1/03, effective 8/1/03. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-170, filed 11/25/92, effective 12/26/92.]

WAC 173-201A-530 Enforcement. To insure that the provisions of chapter 90.48 RCW, the standards for water quality promulgated herein, the terms of waste disposal permits, and other orders and directives of the department are fully complied with, the following enforcement tools will be relied upon by the department, in cooperation with the attorney general as it deems appropriate:

(1) Issuance of notices of violation and regulatory orders as provided for in RCW 90.48.120.

(2) Initiation of actions requesting injunctive or other appropriate relief in the various courts of the state as provided for in RCW 90.48.037.

(3) Levying of civil penalties as provided for in RCW 90.48.144.

(4) Initiation of a criminal proceeding by the appropriate county prosecutor as provided for in RCW 90.48.140.

(5) Issuance of regulatory orders or directives as provided for in RCW 90.48.240.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), recodified as § 173-201A-530, filed 7/1/03, effective 8/1/03. Statutory Authority: Chapter 90.48 RCW. 92-24-037 (Order 92-29), § 173-201A-180, filed 11/25/92, effective 12/26/92.]

WAC 173-201A-600 Use designations—Fresh waters. (1) **All surface waters of the state not named in Table 602 are to be protected for the designated uses of: Salmon and trout spawning, noncore rearing, and migration; primary contact recreation; domestic, industrial, and agricultural water supply; stock watering; wildlife habitat; harvesting; commerce and navigation; boating; and aesthetic values.**

(a) **Additionally, the following waters are also to be protected for the designated uses of salmon and trout spawning, core rearing, and migration; and extraordinary primary contact recreation:**

(i) **All surface waters lying within national parks, national forests, and/or wilderness areas;**

(ii) **All lakes and all feeder streams to lakes (reservoirs with a mean detention time greater than fifteen days are to be treated as a lake for use designation);**

(iii) **All surface waters that are tributaries to waters designated salmon and trout spawning, core rearing, and migration; or extraordinary primary contact recreation; and**

(iv) **All fresh surface waters that are tributaries to extraordinary quality marine waters (WAC 173-201A-610 through 173-201A-612).**

(2) The water quality standards for surface waters for the state of Washington do not apply to segments of waters listed in Table 602 that are on Indian reservations.

Table 600 (Key to Table 602)

Abbreviation	General Description
Aquatic Life Uses:	(see WAC 173-201A-200(1))
Char	**Char.** For the protection of spawning and early tributary rearing (e.g., first year juveniles) of native char (bull trout and Dolly Varden), and other associated aquatic life.
Core Salmon/Trout	**Salmon and trout spawning, core rearing, and migration.** For the protection of spawning, core rearing, and migration of salmon and trout, and other associated aquatic life.
Noncore Salmon/Trout	**Salmon and trout spawning, noncore rearing, and migration.** For the protection of spawning, noncore rearing, and migration of salmon and trout, and other associated aquatic life.
Salmon/Trout Rearing	**Salmon and trout rearing and migration only.** For the protection of rearing and migration of salmon and trout, and other associated aquatic life.
Redband Trout	**Non-anadromous interior redband trout.** For the protection of waters where the only trout species is a non-anadromous form of self-reproducing interior redband trout (*O. mykis*), and other associated aquatic life.
Warm Water Species	**Indigenous warm water species.** For the protection of waters where the dominant species under natural conditions would be temperature tolerant indigenous nonsalmonid species. Examples include dace, redside shiner, chiselmouth, sucker, and northern pikeminnow.
Recreational Uses:	(see WAC 173-201A-200(2))
Extraordinary Primary Cont.	Extraordinary quality primary contact waters. Waters providing extraordinary protection against waterborne disease or that serve as tributaries to extraordinary quality shellfish harvesting areas.
Primary Cont.	Primary contact recreation.
Secondary Cont.	Secondary contact recreation.

Table 600 (Key to Table 602)

Abbreviation	General Description
Water Supply Uses:	(see WAC 173-201A-200(3))
Domestic Water	Domestic water supply.
Industrial Water	Industrial water supply.
Agricultural Water	Agricultural water supply.
Stock Water	Stock watering.
Miscellaneous Uses:	(see WAC 173-201A-200(4))
Wildlife Habitat	Wildlife habitat.
Harvesting	Fish harvesting.
Commerce/Navigation	Commerce and navigation.
Boating	Boating.
Aesthetics	Aesthetic values.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-600, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-602 Table 602—Use designations for fresh waters by water resource inventory area (WRIA). (1) Table 602 lists uses for fresh waters. The Columbia River is listed first, followed by other water bodies listed by WRIA. Only the uses with the most stringent criteria are listed. The criteria notes in Table 602 take precedence over the criteria in WAC 173-201A-200 for same parameter.

(2) Table 602 is necessary to determine and fully comply with the requirements of this chapter. If you are viewing a paper copy of the rule from the office of the code reviser or are using their website, Table 602 may be missing (it will instead say "place illustration here"). In this situation, you may view Table 602 at the department of ecology's website at www.ecy.wa.gov, or request a paper copy of the rule with Table 602 from the department of ecology or the office of the code reviser.

Illustration 1: Water Resources Inventory Area Map

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Key:			
1. Nooksack	21. Queets/Quinault	41. Lower Crab	61. Upper Lake Roosevelt
2. San Juan	22. Lower Chehalis	42. Grand Coulee	62. Pend Oreille
3. Lower Skagit/Samish	23. Upper Chehalis	43. Upper Crab/Wilson	
4. Upper Skagit	24. Willapa	44. Moses Coulee	
5. Stillaguamish	25. Grays/Elochoman	45. Wenatchee	
6. Island	26. Cowlitz	46. Entiat	
7. Snohomish	27. Lewis	47. Chelan	
8. Cedar/Sammamish	28. Salmon/Washougal	48. Methow	
9. Duwamish/Green	29. Wind/White Salmon	49. Okanogan	
10. Puyallup/White	30. Klickitat	50. Foster	
11. Nisqually	31. Rock/Glade	51. Nespelem	
12. Chambers/Clover	32. Walla Walla	52. Sanpoil	
13. Deschutes	33. Lower Snake	53. Lower Lake Roosevelt	
14. Kennedy/Goldsborough	34. Palouse	54. Lower Spokane	
15. Kitsap	35. Middle Snake	55. Little Spokane	
16. Skokomish/ Dosewallips	36. Esquatzel Coulee	56. Hangman	
17. Quilcene/Snow	37. Lower Yakima	57. Middle Spokane	
18. Elwha/Dungeness	38. Naches	58. Middle Lake Roosevelt	
19. Lyre/Hoko	39. Upper Yakima	59. Colville	
20. Soleduck/Hoh	40. Alkaki/Squilchuck	60. Kettle	

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[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-602, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-610 Use designations—Marine waters. All marine surface waters have been assigned specific uses for protection under Table 612.

Table 610 (Key to Table 612)

Abbreviation	General Description
Aquatic Life Uses:	(see WAC 173-201A-210(1))
Extraordinary	Extraordinary quality salmonid and other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.
Excellent	Excellent quality salmonid and other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.
Good	Good quality salmonid migration and rearing; other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.
Fair	Fair quality salmonid and other fish migration.
Shellfish Harvesting:	(see WAC 173-201A-210(2))
Shellfish Harvest	Shellfish (clam, oyster, and mussel) harvesting.
Recreational Uses:	(see WAC 173-201A-210(3))
Primary Cont.	Primary contact recreation.
Secondary Cont.	Secondary contact recreation.
Miscellaneous Uses:	(see WAC 173-201A-210(4))
Wildlife Habitat	Wildlife habitat.
Harvesting	Salmonid and other fish harvesting, and crustacean and other shellfish (crabs, shrimp, scallops, etc.) harvesting.
Com./Navig.	Commerce and navigation.
Boating	Boating.
Aesthetics	Aesthetic values.

[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-610, filed 7/1/03, effective 8/1/03.]

WAC 173-201A-612 Table 612—Use designations for marine waters. (1) Table 612 lists uses for marine waters. Only the uses with the most stringent criteria are listed. The criteria notes in Table 612 take precedence over the criteria in WAC 173-201A-210 for the same parameter.

(2) Table 612 is necessary to determine and fully comply with the requirements of this chapter. If you are viewing a paper copy of the rule from the office of the code reviser or are using their website, Table 612 may be missing (it will instead say "place illustration here"). In this situation, you may view Table 612 at the department of ecology's website at www.ecy.wa.gov, or request a paper copy of the rule with Table 612 from the department of ecology or the office of the code reviser.

Place illustration here.

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[Statutory Authority: Chapters 90.48 and 90.54 RCW. 03-14-129 (Order 02-14), § 173-201A-612, filed 7/1/03, effective 8/1/03.]

Chapter 173-303 WAC
DANGEROUS WASTE REGULATIONS

WAC

173-303-045	References to EPA's hazardous waste and permit regulations.
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173-303-071	Excluded categories of waste.
173-303-100	Dangerous waste criteria.
173-303-110	Sampling and testing methods.
173-303-140	Land disposal restrictions.
173-303-170	Requirements for generators of dangerous waste.
173-303-200	Accumulating dangerous waste on-site.
173-303-283	Performance standards.
173-303-380	Facility recordkeeping.
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173-303-400	Interim status facility standards.
173-303-500	Recycling requirements for state-only dangerous waste.
173-303-505	Special requirements for recyclable materials used in a manner constituting disposal.
173-303-506	Special requirements for the recycling of spent CFC or HCFC refrigerants.
173-303-510	Special requirements for dangerous wastes burned for energy recovery.
173-303-520	Special requirements for reclaiming spent lead acid battery wastes.
173-303-522	Special requirements for recycling spent antifreeze.
173-303-525	Special requirements for recyclable material utilized for precious metal recovery.
173-303-578	Military munitions.
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173-303-645	Releases from regulated units.
173-303-646	Corrective action.
173-303-690	Air emission standards for process vents.
173-303-691	Air emission standards for equipment leaks.
173-303-692	Air emission standards for tanks, surface impoundments, and containers.
173-303-806	Final facility permits.
173-303-830	Permit changes.

WAC 173-303-045 References to EPA's hazardous waste and permit regulations. (1) Any references in this chapter to any parts, subparts, or sections from EPA's hazardous waste regulations, including 40 CFR Parts 260 through 280 and Part 124, are in reference to those rules as they existed on July 1, 1999. Copies of the appropriate referenced federal requirements are available upon request from the department.

(2) The following sections and any cross-reference to these sections are not incorporated or adopted by reference because they are provisions that EPA cannot delegate to states:

(a) 40 CFR Parts 260.1 (b)(4)-(6) and 260.20-22.

(b) 40 CFR Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301(k); and 265.430.

(c) 40 CFR Parts 268.5 and 268.6; 268 Subpart B; 268.42(b) and 268.44 (a) through (g).

(d) 40 CFR Parts 270.1 (c)(1)(i); 270.3; 270.60(b); and 270.64.

(e) 40 CFR Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.

(3) Where EPA's regulations are incorporated by reference:

(a) "Regional administrator" means "the department."

(b) "Administrator" means "director."

(c) "Director" means "department."

(d) These substitutions should be made as appropriate. They should not be made where noted otherwise in this chapter. They should not be made where another EPA region is referred to, where a provision cannot be delegated to the state, or where the director referred to is the director of another agency.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-045, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-045, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 98-03-018 (Order 97-03), § 173-303-045, filed 1/12/98, effective 2/12/98; 95-22-008 (Order 94-30), § 173-303-045, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-045, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-045, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-045, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-045, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-045, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-045, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-045, filed 2/10/82.]

WAC 173-303-070 Designation of dangerous waste. (1) Purpose and applicability.

(a) This section describes the procedures for determining whether or not a solid waste is DW or EHW.

(b) The procedures in this section are applicable to any person who generates a solid waste (including recyclable materials) that is not exempted or excluded by this chapter or by the department. Any person who must determine whether or not their solid waste is designated must follow the procedures set forth in subsection (3) of this section. Any person who determines by these procedures that their waste is designated DW or EHW is subject to all applicable requirements of this chapter.

(c) The requirements for the small quantity generator exemption are found in subsection (8) of this section.

(2)(a) Once a material has been determined to be a dangerous waste, then any solid waste generated from the recycling, treatment, storage, or disposal of that dangerous waste is a dangerous waste unless and until:

(i) The generator has been able to accurately describe the variability or uniformity of the waste over time, and has been able to obtain demonstration samples which are representative of the waste's variability or uniformity; and

(ii)(A) It does not exhibit any of the characteristics of WAC 173-303-090; however, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of WAC 173-303-140 (2)(a), even if they no longer exhibit a characteristic at the point of land disposal; and

(B) If it was a listed waste under WAC 173-303-080 through 173-303-083, it also has been exempted pursuant to WAC 173-303-910(3); or

(iii) If originally designated only through WAC 173-303-100, it does not meet any of the criteria of WAC 173-303-100.

Such solid waste will include but not be limited to any sludge, spill residue, ash emission control dust, leachate, or precipitation runoff. Precipitation runoff will not be considered a dangerous waste if it can be shown that the runoff has not been contaminated with the dangerous waste, or that the runoff is adequately addressed under existing state laws (e.g. chapter 90.48 RCW), or that the runoff does not exhibit any of the criteria or characteristics described in WAC 173-303-100.

(b) Materials that are reclaimed from solid wastes and that are used beneficially (as provided in WAC 173-303-016 and 173-303-017) are not solid wastes and hence are not dangerous wastes under this section unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(c) Notwithstanding subsections (1) and (2) of this section and provided the debris does not exhibit a characteristic identified in WAC 173-303-090, the following materials are not subject to regulation under this chapter:

(i) Hazardous debris that has been treated using one of the required extraction or destruction technologies specified in Table 1 of 40 CFR section 268.45; persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or

(ii) Debris that the department, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

(3) Designation procedures.

(a) To determine whether or not a solid waste is designated as a dangerous waste a person must:

(i) First, determine if the waste is a listed discarded chemical product, WAC 173-303-081;

(ii) Second, determine if the waste is a listed dangerous waste source, WAC 173-303-082;

(iii) Third, if the waste is not listed in WAC 173-303-081 or 173-303-082, or for the purposes of compliance with the federal land disposal restrictions as adopted by reference in WAC 173-303-140, determine if the waste exhibits any dangerous waste characteristics, WAC 173-303-090; and

(iv) Fourth, if the waste is not listed in WAC 173-303-081 or 173-303-082, and does not exhibit a characteristic in WAC 173-303-090, determine if the waste meets any dangerous waste criteria, WAC 173-303-100.

(b) A person must check each section, in the order set forth, until they determine whether the waste is designated as a dangerous waste. Once the waste is determined to be a dangerous waste, further designation is not required except as required by subsection (4) or (5) of this section. If a person has checked the waste against each section and the waste is not designated, then the waste is not subject to the requirements of chapter 173-303 WAC.

Any person who wishes to seek an exemption for a waste which has been designated DW or EHW must comply with the requirements of WAC 173-303-072.

(c) For the purpose of determining if a solid waste is a dangerous waste as identified in WAC 173-303-080 through 173-303-100, a person must either:

(i) Test the waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110; or

(ii) Apply knowledge of the waste in light of the materials or the process used, when:

(A) Such knowledge can be demonstrated to be sufficient for determining whether or not it designated and/or designated properly; and

(B) All data and records supporting this determination in accordance with WAC 173-303-210(3) are retained on-site.

(4) Testing required. Notwithstanding any other provisions of this chapter, the department may require any person to test a waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110 to determine whether or not the waste is designated under the dangerous waste lists, characteristics, or criteria, WAC 173-303-080 through 173-303-100. Such testing may be required if the department has reason to believe that the waste would be designated DW or EHW by the dangerous waste lists, characteristics, or criteria, or if the department has reason to believe that the waste is designated improperly (e.g., the waste has been designated DW but should actually be designated EHW). If a person, pursuant to the requirements of this subsection, determines that the waste is a dangerous waste or that its designation must be changed, then they are subject to the applicable requirements of this chapter 173-303 WAC. The department will base a requirement to test a waste on evidence that includes, but is not limited to:

(a) Test information indicating that the person's waste may be DW or EHW;

(b) Evidence that the person's waste is very similar to another persons' already designated DW or EHW;

(c) Evidence that the persons' waste has historically been a DW or EHW;

(d) Evidence or information about a person's manufacturing materials or processes which indicate that the wastes may be DW or EHW; or

(e) Evidence that the knowledge or test results a person has regarding a waste is not sufficient for determining whether or not it designated and/or designated properly.

(5) Additional designation required. A generator must manage dangerous waste under the most stringent management standards that apply. The following subsections describe how waste that has been designated as DW under the dangerous waste lists, WAC 173-303-080 through 173-303-082, or characteristics, WAC 173-303-090, or in the case of (c) of this subsection, under the lists, characteristics, or criteria, must be further designated under the dangerous waste criteria, WAC 173-303-100. This further designation under the criteria is necessary because it may change how the waste must be managed. Additional designation is required when:

(a) The waste is designated as DW with a QEL of 220 pounds and the generator otherwise qualifies as a small quantity generator. In this case, a generator must determine if their DW is also designated as a toxic EHW, WAC 173-303-100, with a QEL of 2.2 pounds; or

(b) The waste is designated as DW and the waste is to be discharged to a POTW operating under WAC 173-303-802(4) (Permits by rule). In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100; or

(c) The waste is designated as a state-only DW and the waste is to be:

(i) Burned for energy recovery, as used oil, under the provisions of WAC 173-303-515; or

(ii) Land disposed within the state. In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100.

(6) Dangerous waste numbers. When a person is reporting or keeping records on a dangerous waste, they must use all the dangerous waste numbers which they know are assignable to the waste from the dangerous waste lists, characteristics, or criteria. For example, if the waste is ignitable *and* contains more than 5 mg/l leachable lead when tested for the toxicity characteristic, they must use the dangerous waste numbers of D001 and D008. This will not be construed as requiring a person to designate their waste beyond those designation requirements set forth in subsections (2), (3), (4), and (5) of this section.

(7) Quantity exclusion limits; aggregated waste quantities.

(a) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL are used to distinguish when a dangerous waste is only subject to the small quantity generator provisions, and when a dangerous waste is subject to the full requirements of this chapter. Any solid waste which is not excluded or exempted and which is listed by or exhibits the characteristics or meets the criteria of this chapter is a dangerous waste. Small quantity generators who produce dangerous waste below the QEL are subject to the requirements described in subsection (8) of this section.

(b) Aggregated waste quantities. A person may be generating, accumulating, or storing more than one kind of danger-

ous waste. In such cases, they must consider the aggregate quantity of their wastes when determining whether or not their waste amounts exceed the specific limits for waste accumulation or the specific quantity exclusion limits (QEL) for waste generation. Waste quantities must be aggregated for all wastes with common QEL's. Example: If a person generates 100 pounds of an ignitable waste and 130 pounds of a persistent waste, then both wastes are regulated because their aggregate waste quantity (230 pounds) exceeds their common QEL of 220 pounds. On the other hand, if a person generates one pound of a toxic EHW and 218 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 220 pounds, respective QEL's). (Note: In order to remain a small quantity generator, the total quantity of dangerous waste generated in one month, all DW and EHW regardless of their QELs, must not equal or exceed 220 pounds. Not more than 2.2 pounds of a waste with a 2.2 pound QEL may be part of that total.)

(c) When making the quantity determinations of this subsection and WAC 173-303-170 through 173-303-230, generators must include all dangerous wastes they generate, except dangerous waste that:

(i) Is exempt from regulation under WAC 173-303-071; or

(ii) Is recycled under WAC 173-303-120 (2)(a), (3)(c), (e), (h) or (5); or

(iii) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in WAC 173-303-040; or

(iv) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under WAC 173-303-120 (4)(a); or

(v) Is spent lead-acid batteries managed under the requirements of WAC 173-303-120 (3)(f) and 173-303-520; or

(vi) Is universal waste managed under WAC 173-303-077 and 173-303-573.

(d) In determining the quantity of dangerous waste generated, a generator need not include:

(i) Dangerous waste when it is removed from on-site storage; or

(ii) Reserve; or

(iii) Spent materials that are generated, reclaimed, and subsequently reused on-site, as long as such spent materials have been counted once (Note: If after treatment or reclamation a residue is generated with a different waste code(s), that residue must be counted); or

(iv) The container holding/containing the dangerous waste as described under WAC 173-303-160(1).

(8) Small quantity generators.

(a) A person is a small quantity generator and subject to the requirements of this subsection if:

(i) Their waste is dangerous waste under subsection (3) of this section, and the quantity of waste generated per month (or the aggregated quantity if more than one kind of waste is generated) does not equal or exceed the quantity exclusion limit (QEL) for such waste (or wastes) as described in WAC 173-303-070(7); and

(ii) The quantity accumulated or stored does not exceed 2200 pounds for wastes with a 220 pound QEL and 2.2 pounds for waste with a 2.2 pound QEL. (Exception: The accumulation limit for the acute hazardous wastes described in WAC 173-303-081 (2)(iv) and 173-303-082 (2)(b) is 220 lbs); and

(iii) The total quantity of dangerous waste generated in one month, all DW and EHW regardless of their QELs, does not equal or exceed 220 pounds. If a person generates any dangerous wastes that exceed the QEL or accumulates or stores waste that exceeds the accumulation limits, then all dangerous waste generated, accumulated, or stored by that person is subject to the requirements of this chapter. A small quantity generator who generates in excess of the quantity exclusion limits or, accumulates, or stores waste in excess of the accumulation limits becomes subject to the full requirements of this chapter and cannot again be a small quantity generator until after all dangerous waste on-site at the time he or she became fully regulated have been removed, treated, or disposed.

Example. If a person generates four pounds of an acute hazardous waste discarded chemical product (QEL is 2.2 pounds) and 200 pounds of an ignitable waste (QEL is 220 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste.

(Comment: If a generator generates acute hazardous waste in a calendar month in quantities greater than the QELs, all quantities of that acute hazardous waste are subject to full regulation under this chapter. "Full regulation" means the regulations applicable to generators of greater than 2200 pounds of dangerous wastes in a calendar month.)

(b) Small quantity generators will not be subject to the requirements of this chapter if they:

(i) Designate their waste in accordance with WAC 173-303-070; and

(ii) Manage their waste in a way that does not pose a potential threat to human health or the environment; and

(iii) Either treat or dispose of their dangerous waste in an on-site facility, or ensure delivery to an off-site facility, either of which, if located in the United States, is:

(A) Permitted (including permit-by-rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

(B) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 CFR Part 271, or by EPA under 40 CFR Part 270;

(C) Permitted to manage moderate-risk waste under chapter 173-304 WAC (Minimum functional standards for solid waste handling), operated in accordance with state and local regulations, and consistent with the applicable local hazardous waste plan that has been approved by the department;

(D) A facility that beneficially uses or reuses, or legitimately recycles or reclaims the dangerous waste, or that treats the waste prior to such recycling activities;

(E) Permitted, licensed, or registered to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to 40 CFR Part 258 or chapter 173-351 WAC;

(F) Permitted, licensed, or registered by a state to manage nonmunicipal nonhazardous waste and, if managed in a

nonmunicipal nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5 through 257.30;

(G) A publicly owned treatment works (POTW): Provided, That small quantity generator(s) comply with the provisions of the domestic sewage exclusion found in WAC 173-303-071 (3)(a); or

(H) For universal waste managed under WAC 173-303-573, a universal waste handler or destination facility subject to the requirements of WAC 173-303-573; and

(iv) Submit an annual report in accordance with WAC 173-303-220 if they have obtained an EPA/state identification number pursuant to WAC 173-303-060.

(c) If a small quantity generator's wastes are mixed with used oil, the mixture is subject to WAC 173-303-510 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also regulated if it is destined to be burned for energy recovery.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-070, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-070, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 98-03-018 (Order 97-03), § 173-303-070, filed 1/12/98, effective 2/12/98; 95-22-008 (Order 94-30), § 173-303-070, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-070, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapter 70.105 RCW. 93-02-050 (Order 92-32), § 173-303-070, filed 1/5/93, effective 2/5/93. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-070, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-070, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-070, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-070, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-070, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-070, filed 2/10/82.]

WAC 173-303-071 Excluded categories of waste. (1) Purpose. Certain categories of waste have been excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, because they generally are not dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment. WAC 173-303-071 describes these excluded categories of waste.

(2) Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter must comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 CFR Part 261.

(3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, 173-303-145, and 173-303-960, and as otherwise specified:

(a)(i) Domestic sewage; and

(ii) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works (POTW) for treatment provided:

(A) The generator or owner/operator has obtained a state waste discharge permit issued by the department, a temporary permit obtained pursuant to RCW 90.48.200, or pretreatment permit (or written discharge authorization) from a local sewage utility delegated pretreatment program responsibilities pursuant to RCW 90.48.165;

(B) The waste discharge is specifically authorized in a state waste discharge permit, pretreatment permit or written discharge authorization, or in the case of a temporary permit the waste is accurately described in the permit application;

(C) The waste discharge is not prohibited under 40 CFR Part 403.5; and

(D) The waste prior to mixing with domestic sewage must not exhibit dangerous waste characteristics for ignitability, corrosivity, reactivity, or toxicity as defined in WAC 173-303-090, and must not meet the dangerous waste criteria for toxic dangerous waste or persistent dangerous waste under WAC 173-303-100, unless the waste is treatable in the publicly owned treatment works (POTW) where it will be received. This exclusion does not apply to the generation, treatment, storage, recycling, or other management of dangerous wastes prior to discharge into the sanitary sewage system;

(b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment. Owners or operators of certain wastewater treatment facilities managing dangerous wastes may qualify for a permit-by-rule pursuant to WAC 173-303-802(5);

(c) Household wastes, including household waste that has been collected, transported, stored, or disposed. Wastes that are residues from or are generated by the management of household wastes (e.g., leachate, ash from burning of refuse-derived fuel) are not excluded by this provision. "Household wastes" means any waste material (including, but not limited to, garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste will not be deemed to be treating, storing, disposing of, or otherwise managing dangerous wastes for the purposes of regulation under this chapter, if such facility:

(i) Receives and burns only:

(A) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and

(B) Solid waste from commercial or industrial sources that does not contain dangerous waste; and

(ii) Such facility does not accept dangerous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that dangerous wastes are not received at or burned in such facility;

(d) Agricultural crops and animal manures which are returned to the soil as fertilizers;

(e) Asphaltic materials designated only for the presence of PAHs by WAC 173-303-100(6). For the purposes of this exclusion, asphaltic materials means materials that have been used for structural and construction purposes (e.g., roads, dikes, paving) that were produced from mixtures of oil and sand, gravel, ash or similar substances;

(f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;

(g) Treated wood waste and wood products including:

(i) Arsenical-treated wood that fails the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D004 through D017 only), or which fails any state criteria, if the waste is generated by persons who utilize the arsenical-treated wood for the materials' intended end use.

(ii) Wood treated with other preservatives provided such treated wood is, within one hundred eighty days after becoming waste:

(A) Disposed of at a landfill that is permitted in accordance with WAC 173-304-460, minimum functional standards for solid waste handling, or chapter 173-351 WAC, criteria for municipal solid waste landfills, and provided that such wood is neither a listed waste under WAC 173-303-9903 and 173-303-9904 nor a TCLP waste under WAC 173-303-090(8); or

(B) Sent to a facility that will legitimately treat or recycle the treated wood waste, and manage any residue in accordance with that state's dangerous waste regulations; or

(C) Sent off-site to a permitted TSD facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845. In addition, creosote-treated wood is excluded when burned for energy recovery in an industrial furnace or boiler that has an order of approval issued pursuant to RCW 70.94.152 by ecology or a local air pollution control authority to burn creosote treated wood.

(h) Irrigation return flows;

(i) Reserve;

(j) Mining overburden returned to the mining site;

(k) Polychlorinated biphenyl (PCB) wastes:

(i) PCB wastes whose disposal is regulated by EPA under 40 CFR 761.60 (Toxic Substances Control Act) and that are dangerous either because:

(A) They fail the test for toxicity characteristic (WAC 173-303-090(8), Dangerous waste codes D018 through D043 only); or

(B) Because they are designated only by this chapter and not designated by 40 CFR Part 261, are exempt from regulation under this chapter except for WAC 173-303-505 through 173-303-525, 173-303-960, those sections specified in subsection (3) of this section, and 40 CFR Part 266;

(ii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as W001 under WAC 173-303-9904 when such wastes are stored and disposed in a manner equivalent to the requirements of 40 CFR Part 761 Subpart D for PCB concentrations of 50 ppm or greater.

(l) Samples:

(i) Except as provided in (l)(ii) of this subsection, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter, when:

(A) The sample is being transported to a lab for testing or being transported to the sample collector after testing; or

(B) The sample is being stored by the sample collector before transport, by the laboratory before testing, or by the laboratory after testing prior to return to the sample collector; or

(C) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action).

(ii) In order to qualify for the exemptions in (l)(i) of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(A) Comply with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(B) Comply with the following requirements if the sample collector determines that DOT or USPS, or other shipping requirements do not apply:

(I) Assure that the following information accompanies the sample:

(AA) The sample collector's name, mailing address, and telephone number;

(BB) The laboratory's name, mailing address, and telephone number;

(CC) The quantity of the sample;

(DD) The date of shipment;

(EE) A description of the sample; and

(II) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(iii) This exemption does not apply if the laboratory determines that the waste is dangerous but the laboratory is no longer meeting any of the conditions stated in (l)(i) of this subsection;

(m) Reserve;

(n) Dangerous waste generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit until it exits the unit in which it was generated. This exclusion does not apply to surface impoundments, nor does it apply if the dangerous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials;

(o) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332), except that these wastes are not excluded if they exhibit one or more of the dangerous waste criteria (WAC 173-303-100) or characteristics (WAC 173-303-090);

(p) Wastes from burning any of the materials exempted from regulation by WAC 173-303-120 (2)(a)(vii) and (viii). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria;

(q) As of January 1, 1987, secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed;

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal; and

(v) A generator complies with the requirements of chapter 173-303 WAC for any residues (e.g., sludges, filters, etc.) produced from the collection, reclamation, and reuse of the secondary materials.

(r) Treatability study samples.

(i) Except as provided in (r)(ii) of this subsection, persons who generate or collect samples for the purpose of conducting treatability studies as defined in WAC 173-303-040 are not subject to the requirements of WAC 173-303-180, 173-303-190, and 173-303-200 (1)(a), nor are such samples included in the quantity determinations of WAC 173-303-070 (7) and (8) and 173-303-201 when:

(A) The sample is being collected and prepared for transportation by the generator or sample collector; or

(B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study; or

(D) The sample or waste residue is being transported back to the original generator from the laboratory or testing facility.

(ii) The exemption in (r)(i) of this subsection is applicable to samples of dangerous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute dangerous waste, 1000 kg of nonacute dangerous waste other than contaminated media, 1 kg of acutely hazardous waste, 2500 kg of media contaminated with acutely hazardous waste for each process being evaluated for each generated waste stream; and

(B) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute dangerous waste or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of dangerous waste, and 1 kg of acutely hazardous waste; and

(C) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of (r)(ii)(C)(I) or (II) of this subsection are met.

(I) The transportation of each sample shipment complies with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(II) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(AA) The name, mailing address, and telephone number of the originator of the sample;

(BB) The name, address, and telephone number of the laboratory or testing facility that will perform the treatability study;

(CC) The quantity of the sample;

(DD) The date of shipment; and

(EE) A description of the sample, including its dangerous waste number.

(D) The sample is shipped, within ninety days of being generated or of being taken from a stream of previously generated waste, to a laboratory or testing facility which is exempt under (s) of this subsection or has an appropriate final facility permit or interim status; and

(E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(I) Copies of the shipping documents;

(II) A copy of the contract with the facility conducting the treatability study;

(III) Documentation showing:

(AA) The amount of waste shipped under this exemption;

(BB) The name, address, and EPA/state identification number of the laboratory or testing facility that received the waste;

(CC) The date the shipment was made; and

(DD) Whether or not unused samples and residues were returned to the generator.

(F) The generator reports the information required under (r)(ii)(E)(III) of this subsection in its annual report.

(iii) The department may grant requests, on a case-by-case basis, for up to an additional two years for treatability studies involving bioremediation. The department may grant requests on a case-by-case basis for quantity limits in excess of those specified in (r)(ii)(A) and (B) of this subsection and (s)(iv) of this subsection, for up to an additional 5000 kg of media contaminated with nonacute dangerous waste, 500 kg of nonacute dangerous waste, 1 kg of acute hazardous waste, and 2500 kg of media contaminated with acute hazardous waste or for up to an additional 10,000 kg of wastes regulated only by this chapter and not regulated by 40 CFR Part 261, to conduct further treatability study evaluation:

(A) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process, (e.g., batch versus continuous), size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

(B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when:

There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(C) The additional quantities and time frames allowed in (r)(iii)(A) and (B) of this subsection are subject to all the provisions in (r)(i) and (r)(ii)(C) through (F) of this subsection. The generator or sample collector must apply to the department where the sample is collected and provide in writing the following information:

(I) The reason the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

(II) Documentation accounting for all samples of dangerous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(III) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

(IV) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(V) Such other information that the department considers necessary.

(s) Samples undergoing treatability studies at laboratories and testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to chapter 70.105 RCW) are not subject to the requirements of this chapter, except WAC 173-303-050, 173-303-145, and 173-303-960 provided that the conditions of (s)(i) through (xiii) of this subsection are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to (s)(i) through (xiii) of this subsection. Where a group of MTUs are located at the same site, the limitations specified in (s)(i) through (xiii) of this subsection apply to the entire group of MTUs collectively as if the group were one MTU.

(i) No less than forty-five days before conducting treatability studies the laboratory or testing facility notifies the department in writing that it intends to conduct treatability studies under this subsection.

(ii) The laboratory or testing facility conducting the treatability study has an EPA/state identification number.

(iii) No more than a total of 10,000 kg of "as received" media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg of other "as received" dangerous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(iv) The quantity of "as received" dangerous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of nonacute dangerous wastes other than contaminated media, and 1 kg of acutely hazardous waste. This quantity limitation does not include treatment materials (including nondangerous solid waste) added to "as received" dangerous waste.

(v) No more than ninety days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

(vi) The treatability study does not involve the placement of dangerous waste on the land or open burning of dangerous waste.

(vii) The laboratory or testing facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

(A) The name, address, and EPA/state identification number of the generator or sample collector of each waste sample;

(B) The date the shipment was received;

(C) The quantity of waste accepted;

(D) The quantity of "as received" waste in storage each day;

(E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

(F) The date the treatability study was concluded;

(G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated TSD facility, the name of the TSD facility and its EPA/state identification number.

(viii) The laboratory or testing facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(ix) The laboratory or testing facility prepares and submits a report to the department by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(A) The name, address, and EPA/state identification number of the laboratory or testing facility conducting the treatability studies;

(B) The types (by process) of treatability studies conducted;

(C) The names and addresses of persons for whom studies have been conducted (including their EPA/state identification numbers);

(D) The total quantity of waste in storage each day;

(E) The quantity and types of waste subjected to treatability studies;

(F) When each treatability study was conducted;

(G) The final disposition of residues and unused sample from each treatability study.

(x) The laboratory or testing facility determines whether any unused sample or residues generated by the treatability study are dangerous waste under WAC 173-303-070 and if so, are subject to the requirements of this chapter, unless the residues and unused samples are returned to the sample originator under the exemption in (r) of this subsection.

(xi) The laboratory or testing facility notifies the department by letter when it is no longer planning to conduct any treatability studies at the site.

(xii) The date the sample was received, or if the treatability study has been completed, the date of the treatability study, is marked and clearly visible for inspection on each container.

(xiii) While being held on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public.

Note: If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate.

(t) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D018 through D043 only) and are subject to the corrective action regulations under 40 CFR Part 280.

(u) Special incinerator ash (as defined in WAC 173-303-040).

(v) Wood ash that would designate solely for corrosivity by WAC 173-303-090 (6)(a)(iii). For the purpose of this exclusion, wood ash means ash residue and emission control dust generated from the combustion of untreated wood, wood treated solely with creosote, and untreated wood fiber materials including, but not limited to, wood chips, saw dust, tree stumps, paper, cardboard, residuals from waste fiber recycling, deinking rejects, and associated wastewater treatment solids. This exclusion allows for the use of auxiliary fuels including, but not limited to, oils, gas, coal, and other fossil fuels in the combustion process.

(w)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

(ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in (w)(i) and (ii) of this subsection, so long as they meet all of the following conditions:

(A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;

(B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or ground water or both;

(C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

(D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in Part 265, Subpart W which is incorporated by reference at WAC 173-303-400 (3)(a), regardless of whether the plant generates a total of less than 220 pounds/month of dangerous waste; and

(E) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the department a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the department for reinstatement. The department may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

(F) Additional reports.

(I) Upon determination by the department that the storage of wood preserving wastewaters and spent wood preserving solutions in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store wood preserving wastewaters and spent wood preserving solutions. This authority applies to tanks and secondary containment systems used to store wood preserving wastewaters and spent wood preserving solutions in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of wood preserving wastewaters and spent wood preserving solutions or the generation of hazardous by-products. Such observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.

(II) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.

(III) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (w)(iii)(F)(I) of this subsection, it is determined that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the wood preserving wastewaters and spent wood preserving solutions until such repairs or improvements are completed and approved by the department.

(x) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

(y) Used oil filters that are recycled in accordance with WAC 173-303-120, as used oil and scrap metal.

(z) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(aa) Wastes that fail the test for the toxicity characteristic in WAC 173-303-090 because chromium is present or are listed in WAC 173-303-081 or 173-303-082 due to the presence of chromium. The waste must not designate for any other characteristic under WAC 173-303-090, for any of the criteria specified in WAC 173-303-100, and must not be listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium. The waste generator must be able to demonstrate that:

(i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

(ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

(iii) The waste is typically and frequently managed in nonoxidizing environments.

(bb)(i) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062 or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in WAC 173-303-040 - blast furnaces, smelting, melting and refining furnaces, and other devices the department may add to the list - of the definition for "industrial furnace"), that are disposed in subtitle D units, provided that these residues meet the generic exclusion levels identified in the tables in this paragraph for all constituents, and exhibit no characteristics of dangerous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

Constituent	Maximum for any single composite sample-TCLP (mg/l)
Generic exclusion levels for K061 and K062 nonwastewater HTMR residues	
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
(2)Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70
Generic exclusion levels for F006 nonwastewater HTMR residues	
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(ii) A one-time notification and certification must be placed in the facility's files and sent to the department for K061, K062 or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generator's or treater's files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater need only notify the department on an annual basis if such changes occur. Such notification and certification should be sent to the department by the end of the calendar year, but no later than December 31. The notification must include the following information: The name and address of the subtitle D unit receiving the waste shipments; the dangerous waste number(s) and treatability group(s) at the initial point of generation; and, the treatment standards applicable to the waste at the initial point of generation. The certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of dangerous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment." These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics (WAC 173-303-090) or criteria (WAC 173-303-100).

(cc)(i) Oil-bearing hazardous secondary materials (that is, sludges, by-products, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911 - including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (that is, cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph: Provided, That the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in (cc)(ii) of this subsection, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (that

is, from sources other than petroleum refineries) are not excluded under this section. Residuals generated from processing or recycling materials excluded under this paragraph, where such materials as generated would have otherwise met a listing under WAC 173-303-081 and 173-303-082, are designated as F037 listed wastes when disposed of or intended for disposal.

(ii) Recovered oil that is recycled in the same manner and with the same conditions as described in (cc)(i) of this subsection. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in WAC 173-303-081 and 173-303-082; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in WAC 173-303-040.

(dd) Dangerous waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are dangerous only because they exhibit the toxicity characteristic (TC) specified in WAC 173-303-090(8) when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or tar recovery or refining processes, or mixed with coal tar.

(ee) Biological treatment sludge from the treatment of one of the following wastes listed in WAC 173-303-9904 - organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K156), and wastewaters from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K157) unless it exhibits one or more of the characteristics or criteria of dangerous waste.

(ff) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.

(gg) Shredded circuit boards being recycled: Provided, That they are:

(i) Stored in containers sufficient to prevent a release to the environment prior to recovery; and

(ii) Free of mercury switches, mercury relays and nickel-cadmium batteries and lithium batteries.

(hh) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided:

(i) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in WAC 173-303-090(5) and/or toxicity for benzene (WAC 173-303-090(8), waste code D018); and

(ii) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process.

An "associated organic chemical manufacturing facility" is a facility where the primary SIC code is 2869, but where operations may also include SIC codes 2821, 2822, and 2865; and is physically colocated with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (that is, sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

(ii) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in WAC 173-303-016(5).

(jj) Catalyst inert support media separated from one of the following wastes listed in WAC 173-303-9904 Specific Sources - Spent hydrotreating catalyst (EPA Hazardous Waste No. K171), and Spent hydrorefining catalyst (EPA Hazardous Waste No. K172). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria.

(kk) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed: Provided, That:

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, and K172 if these wastes had been generated after the effective date of the listing (February 8, 1999);

(ii) The solid wastes described in (kk)(i) of this subsection were disposed prior to the effective date of the listing;

(iii) The leachate or gas condensate does not exhibit any characteristic or criteria of dangerous waste nor is derived from any other listed hazardous waste;

(iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act.

(v) After February 13, 2001, leachate or gas condensate will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: If the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (for example, shutdown of wastewater treatment system): Provided, That the impoundment has a double liner, and: Provided further, That the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends.

(ll) Dredged material. Dredged material as defined in 40 CFR 232.2 that is subject to:

(i) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers or an approved state under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(ii) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers under section 103 of the

Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

(iii) In the case of a U.S. Army Corps of Engineers civil works project, the administrative equivalent of the permits referred to in (ll)(i) and (ii) of this subsection, as provided for in U.S. Army Corps of Engineers regulations, including, for example, 33 CFR 336.1, 336.2 and 337.3.

(mm) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.

(nn)(i) Controlled substances, legend drugs, and over-the-counter drugs that are state-only dangerous wastes.

(A) Controlled substances as defined and regulated by chapter 69.50 RCW (Schedule I through V);

(B) Legend drugs as defined and regulated by chapter 69.41 RCW; and

(C) Over-the-counter drugs as defined and regulated by chapter 69.60 RCW.

(ii) Controlled substances, legend drugs, and over-the-counter drugs that are held in the custody of law enforcement agencies or possessed by any licensee as defined and regulated by chapter 69.50 RCW or Title 18 RCW and authorized to possess drugs within the state of Washington are excluded, provided the drugs are disposed of by incineration in a controlled combustion unit with a heat input rate greater than 250 million British thermal units/hour, a combustion zone temperature greater than 1500 degrees Fahrenheit, or a facility permitted to incinerate municipal solid waste.

(iii) For the purposes of this exclusion the term "drugs" means:

(A) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(B) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(C) Substances (other than food) intended to affect the structure or any function of the body of man or other animals, as defined in RCW 18.64.011(3). (Note: RCW 18.64.011 (3)(d) is intentionally not included in the definition of drugs for this exclusion.)

(iv) When possessed by any licensee the term drugs used in this exclusion means finished drug products.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-071, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-071, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 98-03-018, (Order 97-03), § 173-303-071, filed 1/12/98, effective 2/12/98; 95-22-008 (Order 94-30), § 173-303-071, filed 10/19/95, effective 11/19/95; 94-12-018 (Order 93-34), § 173-303-071, filed 5/23/94, effective 6/23/94; 94-01-060 (Order 92-33), § 173-303-071, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-071, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-071, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-071, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-071, filed 6/3/86; 85-09-042 (Order DE-85-02), § 173-303-071, filed 4/15/85; 84-09-088 (Order DE 83-36), § 173-303-071, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-071, filed 2/10/82.]

WAC 173-303-100 Dangerous waste criteria. (1) Purpose. The purpose of this section is to describe methods for determining if a solid waste is a dangerous waste by the criteria set forth in this section. The dangerous waste criteria consist of:

(a) Toxic dangerous wastes; and

(b) Persistent dangerous wastes.

(2) References. The National Institute for Occupational Safety and Health's (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS), Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is adopted by reference.

(3) A person must use data which is available to him, and, when such data is inadequate for the purposes of this section, must refer to the NIOSH RTECS to determine:

(a) Toxicity data or toxic category for each known constituent in the waste;

(b) Whether or not each known constituent of the waste is a halogenated organic compound or a polycyclic aromatic hydrocarbon as defined in WAC 173-303-040.

(4) Quantity exclusion limit. A solid waste is a dangerous waste if it meets one or more of the dangerous waste criteria described in subsections (5) and (6) of this section. If a person's solid waste meets one or more of these criteria then he or she is a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the quantity of the waste exceeds the following quantity exclusion limits:

(a) For toxic dangerous wastes designated as EHW (WT01), the quantity exclusion limit is 2.2 lbs. per month.

(b) For all other wastes designating under this section the quantity exclusion limit is 220 lbs. (100 kg) per month or per batch.

(5) Toxicity criteria. Except as provided in WAC 173-303-070 (4) or (5), a person must determine if a solid waste meets the toxicity criteria under this section by following either the instructions for book designation, when his knowledge of the waste is sufficient, or by testing the waste using the biological testing methods adopted under WAC 173-303-110(3).

(a) Except as provided in WAC 173-303-070(4), if a person knows only some of the toxic constituents in the waste or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for toxicity under this subsection.

(b) Book designation procedure. A person may determine if a waste meets the toxicity criteria by following the book designation instructions as follows:

(i) A person must determine the toxic category for each known constituent. The toxic category for each constituent may be determined from available data, or by obtaining data from the NIOSH RTECS and checking this data against the toxic category table, below. If data is available for more than one of the toxicity criteria (fish, oral, inhalation, or dermal), then the data indicating severest toxicity must be used, and the most acutely toxic category must be assigned to the constituent. If the NIOSH RTECS or other data sources do not agree on the same category, then the category arrived at using the NIOSH RTECS will be used to determine the toxic category. If toxicity data for a constituent cannot be found in the

NIOSH RTECS, or other source reasonably available to a person, then the toxic category need not be determined for that constituent.

TOXIC CATEGORY TABLE

Toxic Category	Fish LC_{50}(mg/L)*	Oral (Rat) LD_{50}(mg/kg)	Inhalation (Rat) LC_{50}(mg/L)	Dermal (Rabbit) LD_{50}(mg/kg)
X	<0.01	<.5	<.02	< 2
A	0.01 - <0.1	.5 - <5	.02 - <.2	2 - <20
B	0.1 - <1	5 - <50	.2 - <2	20 - <200
C	1 - <10	50 - <500	2 - <20	200 - <2000
D	10 - 100	500 - 5000	20 - 200	2000 - 20,000

* The LC_{50} data must be from an exposure period greater than or equal to twenty-four hours. LC_{50} data from any species is acceptable, however, if salmonid LC_{50} data is available it will supersede all other fish data. If salmonid data is unavailable but fathead minnow data is available, it will supersede all other fish species data.

Note: "Inhalation LC_{50}" means a concentration in milligrams of substance per liter of air which, when administered to the respiratory tract for four hours or less, kills within fourteen days half of a group of ten rats each weighing between 200 and 300 grams.

(ii) A person whose waste contains one or more toxic constituents must determine the equivalent concentration for the waste from the following formula:

$$\text{Equivalent Concentration (\%)} = \frac{\sum X\%}{1} + \frac{\sum A\%}{10} + \frac{\sum B\%}{100} + \frac{\sum C\%}{1000} + \frac{\sum D\%}{10{,}000}$$

where $\sum$(X,A,B,C, or D)% is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste contains: Aldrin (A Category) - .01%; Endrin (A Category) - 1%; Benzene (D Category) - 4%; Phenol (C Category) - 2%; Dinoseb (B Category) - 5%; Water (nontoxic) - 87%. The equivalent concentration (E.C.) would be:

$$\text{E.C. (\%)} = \frac{0\%}{1} + \frac{(0.01\% + 1.0\%)}{10} + \frac{5.0\%}{100} + \frac{2.0\%}{1000} + \frac{4.0\%}{10{,}000}$$
$$= 0\% + 0.101\% + 0.05\% + 0.002\% + 0.0004\% = 0.1534\%$$

So the equivalent concentration equals 0.1534%.

(iii) A person whose waste contains toxic constituents must determine its designation according to the value of the equivalent concentration:

(A) If the equivalent concentration is less than 0.001%, the waste is not a toxic dangerous waste; or

(B) If the equivalent concentration is equal to or greater than 0.001% and less than 1.0%, the person will designate the waste as DW and assign the dangerous waste number WT02; and

(C) If the equivalent concentration is equal to or less than 0.01%, the DW may also be a special waste; or

(D) If the equivalent concentration is equal to or greater than 1.0%, the person will designate the waste as EHW and assign the dangerous waste number WT01.

Example 1. Continued. The equivalent concentration of 0.1534% (from Example 1. above) is greater than 0.001% and less than 1.0%. The waste is DW and the dangerous waste number WT02 must be assigned. Since 0.1534% is also greater than 0.01%, the waste is not a special waste.

(iv) Reserve.

(c) Designation from bioassay data. A person may determine if a waste meets the toxicity criteria by following the bioassay designation instructions of either:

(i) The DW bioassay. To determine if a waste is DW, a person must establish the toxicity category range (D category toxicity or greater toxicity) of a waste by means of the 100 mg/L acute static fish test or the 5000 mg/kg oral rat test, as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). If data from the test indicates that the waste is DW, then the person will assign the dangerous waste number WT02. Otherwise, the waste is not regulated as toxic dangerous waste. No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to determine whether the waste is EHW, or in the case of state-only solid dangerous waste, if the person chooses to determine whether the waste is special waste; or

(ii) The EHW and special waste bioassay. To determine if a waste is EHW, a person must establish the toxicity category range of a waste by means of the fish bioassay at 10 mg/L or the rat bioassay at 50 mg/Kg, as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). (NOTE: A fish bioassay at 1 mg/L corresponds with the definition of EHW, which includes toxic categories X-B. However, the fish bioassay is not reproducible at these low levels.) If data from the test indicates that the waste is EHW, then the person will assign the dangerous waste number WT01. Otherwise, the waste will be designated DW, and the person will assign the dangerous waste number WT02. A person with state-only solid waste may choose to test a waste to determine if it is special waste. Testing levels for special waste must be at 10 mg/L for the fish bioassay or 500 mg/Kg for the oral rat bioassay. No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to test the waste in accordance with WAC 173-303-100 (5)(c)(i) to determine if the waste is not regulated as toxic dangerous waste.

(d) If the designation acquired from book designation and bioassay data do not agree, then bioassay data will be used to designate a waste. If a waste is designated as DW or EHW following the book designation procedure, a person may test the waste by means of the biological testing methods (bioassay) adopted under WAC 173-303-110(3), using either the static acute fish or the acute oral rat method, to demonstrate that the waste is not a dangerous waste or should be designated as DW and not EHW.

(e) A waste designated as DW by toxicity criteria must be assigned the dangerous waste number of WT02. A waste designated as EHW by toxicity criteria must be assigned the dangerous waste number of WT01.

(6) Persistence criteria. For the purposes of this section, persistent constituents are chemical compounds which are either halogenated organic compounds (HOC), or polycyclic aromatic hydrocarbons (PAH), as defined under WAC 173-303-040. Except as provided in WAC 173-303-070 (4) or (5), a person may determine the identity and concentration of persistent constituents by either applying knowledge of the waste or by testing the waste according to WAC 173-303-110 (3)(c) *Chemical Testing Methods for Designating Dangerous Waste*, February 1998.

(a) Except as provided in WAC 173-303-070(4), if a person knows only some of the persistent constituents in the waste, or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for persistence under this subsection.

(b) When a waste contains one or more halogenated organic compounds (HOC) for which the concentrations are known, the total halogenated organic compound concentration must be determined by summing the concentration percentages for all of the halogenated organic compounds for which the concentration is known.

Example 2. A waste contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1 - trichloroethylene - .020%. The total halogenated organic compound concentration would be:

Total HOC Concentration (%) = .009% + .012% + .020% = .041%

(c) A person whose waste contains polycyclic aromatic hydrocarbons (PAH) as defined in WAC 173-303-040, must determine the total PAH concentration by summing the concentration percentages of each of the polycyclic aromatic hydrocarbons for which they know the concentration.

Example 3. A person's waste contains: Chrysene - .08%; 3,4 - benzo(a)pyrene - 1.22%. The total polycyclic aromatic hydrocarbon concentration would be:

Total PAH Concentration (%) = .08% + 1.22% = 1.30%

(d) A person whose waste contains halogenated organic compounds and/or polycyclic aromatic hydrocarbons must determine its designation from the persistent dangerous waste table.

PERSISTENT DANGEROUS WASTE TABLE

If your waste contains...	At a total concentration level of...	Then your waste's designation, and waste # are...
Halogenated Organic Compounds (HOC)	0.01% to 1.0%	DW, WP02
	greater than 1.0%	EHW, WP01
Polycyclic Aromatic Hydrocarbons (PAH)	greater than 1.0%	EHW*, WP03

*No DW concentration level for PAH.

(7) Reserve.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-100, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-100, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 98-03-018 (Order 97-03), § 173-303-100, filed 1/12/98, effective 2/12/98; 95-22-008 (Order 94-30), § 173-303-100, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-100, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-100, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-100, filed 2/10/82.]

WAC 173-303-110 Sampling and testing methods. (1) Purpose. This section sets forth the testing methods to be used to comply with the requirements of this chapter. Quality control procedures specified by the testing method or an approved equivalent method must be followed for the analytical result to be considered valid for designation. All methods and publications listed in this section are incorporated by reference.

(2) Representative samples.

(a) The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The department will consider samples collected using the sampling methods below or the most recent version of such methods for wastes with properties similar to the indicated materials, to be representative samples of the wastes:

(i) Crushed or powdered material - ASTM Standard D346-75;

(ii) Extremely viscous liquid - ASTM Standard D140-70;

(iii) Fly ash-like material - ASTM Standard D2234-86;

(iv) Soil-like material - ASTM Standard D1452-80 (Reapproved 1990);

(v) Soil or rock-like material - ASTM Standard D420-93;

(vi) Containerized liquid wastes - "COLIWASA" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a), or the equivalent representative sampling method known as the plunger type sampler, described in ASTM D 5743-97, section 8.6; and,

(vii) Liquid waste in pits, ponds, lagoons, and similar reservoirs - "Pond Sampler" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a).

(b) Copies of these representative sampling methods are available from the department except for the ASTM standards and the AC & D Liquid Sampler Method which can be obtained by writing to:

ASTM
1916 Race Street
Philadelphia, PA 19103.

AC & D Liquid Sampler Method

AC & D Liquid Samplers
77 Symons Street
Richland, WA 99352

(3) Test procedures. Copies of the test procedures listed in this subsection can be obtained by writing to the appropriate address below:

For copies of Department of Ecology test methods:

Attn: Test Procedures
Hazardous Waste Section
Department of Ecology
PO Box 47600
Olympia, Washington 98504-7600

For copies of SW 846, including updates, and 40 CFR Part 261:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402
(202) 512-1800

For copies of ASTM methods:

ASTM
1916 Race Street
Philadelphia, PA 19103

For copies of APTI methods:

APTI
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161

The document titles and included test procedures are as follows:

(a) *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication, SW-846* (Third Edition (November 1986) as amended by Updates I (dated July 1992), II (dated September 1994), IIA (dated August 1993), IIB (dated January 1995), III (dated December 1996), and IIIA (dated April 1998)). The Third Edition of SW-846 and its Updates (document number 955-001-00000-1) are available from the Superintendent of Documents. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 401 M Street, SW, Washington, D.C. 20460. Copies of the Third Edition and all of its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605-6000 or (800) 553-6847;

(b) *Biological Testing Methods*, Department of Ecology Publication #80-12, the latest revision, describing procedures for:

(i) Static acute fish toxicity test; and

(ii) Acute oral rat toxicity test;

(c) *Chemical Testing Methods for Designating Dangerous Waste*, Department of Ecology Publication #97-407, February 1998 describing methods for testing:

(i) Ignitability;

(ii) Corrosivity;

(iii) Reactivity;

(iv) Toxicity characteristic leaching procedure;

(v) Halogenated organic compounds; and

(vi) Polycyclic aromatic hydrocarbons.

(d) Reserve;

(e)(i) The determination of Polychlorinated Biphenyls in Transformer Fluids and Waste Oils, EPA-600/4-81-045; and

(ii) Analysis of Polychlorinated Biphenyls in Mineral Insulating Oils by Gas Chromatography, ASTM Standard D 4059-86.

(f) 40 CFR Part 261 Appendix III *Chemical Analysis Test Methods*, which refers to appropriate analytical procedures to determine whether a sample contains a given toxic constituent in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846*, and 40 CFR Part 261 Appendix II, which refers to *Method 1311 Toxicity Characteristic Leaching Procedure*.

(g) The following publications for air emission standards.

(i) ASTM Standard Method for Analysis of Reformed Gas by Gas Chromatography, ASTM Standard D 1946-82.

(ii) ASTM Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), ASTM Standard D 2382-83.

(iii) ASTM Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis, ASTM Standard E 169-87.

(iv) ASTM Standard Practices for General Techniques of Infrared Quantitative Analysis, ASTM Standard E 168-88.

(v) ASTM Standard Practice for Packed Column Gas Chromatography, ASTM Standard E 260-85.

(vi) ASTM Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography, ASTM Standard D 2267-88.

(vii) ASTM Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, ASTM Standard D 2879-92.

(viii) APTI Course 415: Control of Gaseous Emissions, EPA Publication EPA-450/2-81-005, December 1981.

(ix) "API Publication 2517, Third Edition," February 1989, "Evaporative Loss from External Floating-Roof Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005.

(x) "ASTM Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteriscope," ASTM Standard D 2879-92, available from American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

(h) The following publications:

(i) "Flammable and Combustible Liquids Code" (1977 or 1981), available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, MA 02210.

(ii) U.S. EPA, "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, EPA Publication No. EPA-450/R-92-019, Environmental Protection Agency, Research Triangle Park, NC.

(iii) "ASTM Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals," ASTM Standard E926-88, Test Method C-Bomb, Acid Digestion Method, available from American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103.

(iv) Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry. Available from NTIS, PB99-121949, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

(v) ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester, ASTM Standard D-3278-78, available from American Society for Testing and Materials.

(vi) ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester, ASTM Standard D-93-79 or D-93-80.

(vii) API Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005.

(4) Substantial changes to the testing methods described above will be made only after the department has provided adequate opportunity for public review and comment on the proposed changes. The department may, at its discretion, schedule a public hearing on the proposed changes.

(5) Equivalent testing methods. Any person may request the department to approve an equivalent testing method by submitting a petition, prepared in accordance with WAC 173-303-910(2), to the department.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-110, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-110, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 98-03-018 (Order 97-03), § 173-303-110, filed 1/12/98, effective 2/12/98; 95-22-008 (Order 94-30), § 173-303-110, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-110, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-110, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-110, filed 1/4/89; 86-12-057 (Order DE-85-10), § 173-303-110, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-110, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-110, filed 2/10/82.]

WAC 173-303-140 Land disposal restrictions. (1) Purpose.

(a) The purpose of this section is to encourage the best management practices for dangerous wastes according to the priorities of RCW 70.105.150 which are, in order of priority:

(i) Reduction;

(ii) Recycling;

(iii) Physical, chemical, and biological treatment;

(iv) Incineration;

(v) Stabilization and solidification; and

(vi) Landfill.

(b) This section identifies dangerous wastes that are restricted from land disposal, describes requirements for restricted wastes, and defines the circumstances under which a prohibited waste may continue to be land disposed.

(c) For the purposes of this section, the term "landfill," as stated in the priorities of RCW 70.105.150, will be the same as the term "land disposal." Land disposal will be used in this section to identify the lowest waste management priority.

(2) Applicability.

The land disposal restrictions of this section apply to any person who owns or operates a dangerous waste treatment, storage, or disposal facility in Washington state and to any person who generates or transports dangerous waste.

(a) Land disposal restrictions for wastes designated in accordance with WAC 173-303-070 (3)(a)(i), (ii), and (iii) are the restrictions set forth by the Environmental Protection Agency in 40 CFR Part 268 which are incorporated by reference into this regulation and the restrictions set forth in subsections (3) through (7) of this section. The words "regional administrator" (in 40 CFR) will mean the "department," except for 40 CFR Parts 268.5 and 268.6; 268 Subpart B; 268.42(b) and 268.44 (a) through (g). The authority for implementing these excluded CFR sections remains with the U.S. Environmental Protection Agency. The word "EPA" (in 40 CFR) means "Ecology" at 40 CFR 268.44(m). The exemption and exception provisions of subsections (3) through (7) of this section are not applicable to the federal land disposal restrictions.

(b) Land disposal restrictions for state-only dangerous waste are the restrictions set forth in subsections (3) through (7) of this section.

(3) Definitions.

When used in this section the following terms have the meaning provided in this subsection. All other terms have the meanings given under WAC 173-303-040.

(a) "Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constituents which have caused a waste to be a dangerous waste under this chapter.

(b) "Land disposal" means placement in a facility or on the land with the intent of leaving the dangerous waste at closure, and includes, but is not limited to, placement for disposal purposes in a: Landfill; surface impoundment; waste pile; injection well; land treatment facility; salt dome or salt bed formation; underground cave or mine; concrete vault or bunker.

(c) "Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.

(d) "Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity test of WAC 173-303-090 (6)(a)(iii).

(e) "Stabilization" and "solidification" mean a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.

(4) Land disposal restrictions and prohibitions. The land disposal requirements of this subsection apply to land disposal in Washington state.

(a) Disposal of extremely hazardous waste (EHW). No person may land dispose of EHW, except as provided in subsection (5) of this section, at any land disposal facility in the state. No person may land dispose of EHW at the facility established under RCW 70.105.050, except as provided by subsections (5), (6), and (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process EHW to remove or reduce its harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(b) Disposal of liquid waste. Special requirements for bulk and containerized liquids.

(i) Effective May 8, 1985, the placement of bulk or noncontainerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited. (40 CFR 264.314(a) which applies prior to May 8, 1985, is incorporated by reference.)

(ii) Containers holding free liquids must not be placed in a landfill unless:

(A) All free-standing liquid:

(I) Has been removed by decanting, or other methods; or

(II) Has been mixed with sorbent or stabilized (solidified) so that free-standing liquid is no longer observed; or

(III) Has been otherwise eliminated; or

(B) The container is very small, such as an ampule; or

(C) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

(D) The container is a labpack and is disposed of in accordance with WAC 173-303-161 and this chapter.

(iii) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following tests must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" EPA Publication SW-846 as incorporated by reference in WAC 173-303-110 (3)(a).

(iv) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: Materials listed or described in (b)(iv)(A) of this subsection; materials that pass one of the tests in (b)(iv)(B) of this subsection; or materials that are determined by the department to be nonbiodegradable through WAC 173-303-910.

(A) Nonbiodegradable sorbents.

(I) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites; calcium carbonate (organic free limestone); oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth; perlite (volcanic glass); expanded volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; activated charcoal/activated carbon); or

(II) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, crosslinked allylstyrene and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

(III) Mixtures of these nonbiodegradable materials.

(B) Tests for nonbiodegradable sorbents.

(I) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70 (1984a) - Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi; or

(II) The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b) - Standard Practice for Determining Resistance of Plastics to Bacteria; or

(III) The sorbent material is determined to be nonbiodegradable under OECD (Organization for Economic Cooperation and Development) test 301B: [CO_2 Evolution (Modified Sturm Test)].

(v) Effective November 8, 1985, the placement of any liquid which is not a hazardous waste in a landfill is prohibited unless the owner or operator of such landfill demonstrates to the department, or the department determines, that:

(A) The only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, which contains, or may reasonably be anticipated to contain, hazardous waste; and

(B) Placement in such owner or operator's landfill will not present a risk of contamination of any underground source of drinking water (as that term is defined in 40 CFR Section 144.3).

(c) Disposal of solid acid waste. No person may land dispose solid acid waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(d) Disposal of organic/carbonaceous waste.

(i) No person may land dispose organic/carbonaceous waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter. Organic/carbonaceous wastes must be incinerated as a minimum management method according to the dangerous waste management priorities as defined in subsection (1)(a) of this section.

(ii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to black mud generated from the caustic leach recovery of cryolite at primary aluminum smelting plants.

(iii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to any person who certifies to the department that recycling, treatment and incineration facilities are not available within a radius of one thousand miles from Washington state's borders. Such certification must be sent to the department by certified mail and must include: The name, address and telephone number of the person certifying; a brief description of the organic/carbonaceous waste covered by the certification; a discussion of the efforts undertaken to identify available recycling, treatment and incineration facilities; and the signature of the person responsible for the certification and development of information used to support the certification. Records and information supporting the certification must be retained by the certifying person and must be made available to the department upon request.

A certification that has been properly submitted to the department will remain valid until the department determines that a recycling, treatment or incineration facility is available within a radius of one thousand miles from Washington state's borders and the person who submitted the certification is unable to demonstrate otherwise. A recycling, treatment or incineration facility will be considered by the department to be available if such facility: Is operating, and; can safely and legally recycle, treat or incinerate the organic/carbonaceous waste, and; has sufficient capacity to receive and handle significant amounts of the waste, and; agrees to accept the waste.

(5) Treatment in land disposal facilities. The land disposal restrictions in subsection (4) of this section do not apply to persons treating dangerous wastes in surface impoundments, waste piles, or land treatment facilities provided that such treatment is performed in accordance with the requirements of this subsection and this chapter.

(a) Surface impoundment treatment.

Liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in surface impoundments for purposes of treatment provided the owner/operator can demonstrate that effective treatment of the dangerous waste constituents will occur and at closure

the owner/operator complies with the prohibitions and restrictions of subsection (4) of this section.

(b) Waste pile treatment.

Liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in waste piles for purposes of treatment provided the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur and that at closure the owner/operator will be in compliance with the prohibitions and restrictions of subsection (4) of this section.

(c) Land treatment.

Liquid waste, extremely hazardous waste (EHW), and organic/carbonaceous waste may be land treated provided that the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur, and at the end of the post-closure care period the owner/operator will be in compliance with subsection (4) of this section.

(6) Case-by-case exemptions to a land disposal prohibition. Any person may petition the department for an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste. The procedures to submit a petition to the department are specified in WAC 173-303-910(6). The department may deny any petition if it determines that there is a potential for dangerous waste constituents to migrate from the land disposal facility where the waste is to be placed. The department will deny any petition when exemption would result in a substantial or imminent threat to public health or the environment. The department will deny any petition when exemption would result in a violation of applicable state laws.

The department may grant an exemption from the prohibitions and restrictions of subsection (4) of this section based on the demonstrations specified in (a), (b) or (c) of this subsection.

(a) Land disposal exemption for treatment residuals. Any person may request an exemption from a land disposal prohibition in subsection (4) of this section for treatment residuals by demonstrating to the department that:

(i) The person has applied the best achievable management method to the original waste; and

(ii) Application of additional management methods to the treatment residuals would prevent the person from utilizing the best achievable management methods for the original dangerous waste; and

(iii) The land disposal of the treatment residuals does not pose a greater risk to the public health and the environment than land disposal of the original dangerous waste would pose.

(b) Economic hardship exemption. Any person may request an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste by demonstrating to the department that alternative management of the dangerous waste will impose an unreasonable economic burden in relation to the threat of harm to public health and the environment. It will be solely within the discretion of the department to approve or deny the requests for exemptions based on economic hardship.

(c) Organic/carbonaceous waste exemption. Any person may request an exemption from the requirements in subsection (4) of this section by demonstrating to the department that:

(i) Alternative management methods for organic/carbonaceous waste are less protective of public health and the environment than stabilization or landfilling; or

(ii)(A) The organic/carbonaceous waste has a heat content less than 3,000 BTU/LB or contains greater than sixty-five percent water or other noncombustible moisture; and

(B) Incineration is the only management method available within a radius of one thousand miles from Washington state's border (i.e., recycling or treatment are not available).

(7) Emergency cleanup provision. The department may, on a case-by-case basis, grant an exception to the land disposal restrictions in subsection (4) of this section for an emergency cleanup where an imminent threat to public health and the environment exists. Any exception will require compliance with applicable state law and will require (consistent with the nature of the emergency and imminent threat) application of the waste management priorities of RCW 70.105.-150.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-140, filed 3/13/03, effective 4/13/03; 98-03-018 (Order 97-03), § 173-303-140, filed 1/12/98, effective 2/12/98; 95-22-008 (Order 94-30), § 173-303-140, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-140, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapter 70.105 RCW. 88-02-057 (Order DE 83-36), § 173-303-140, filed 1/5/88, effective 2/5/88; 84-09-088 (Order DE 83-36), § 173-303-140, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-140, filed 2/10/82.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 173-303-170 Requirements for generators of dangerous waste. (1) A person is a dangerous waste generator if their solid waste is designated by the requirements of WAC 173-303-070 through 173-303-100.

(a) The generator is responsible for designating their waste as DW or EHW.

(b) The generator may request an exemption for their dangerous waste according to the procedures of WAC 173-303-072.

(2) A dangerous waste generator must notify the department and obtain an EPA/state identification number as required by WAC 173-303-060, and must comply with the requirements of WAC 173-303-170 through 173-303-230.

(3) Any generator who stores, treats, or disposes of dangerous waste on-site must perform their operations in accordance with the TSD facility requirements with the following exceptions:

(a) Generators who accumulate dangerous wastes for less than ninety days as allowed under WAC 173-303-200 or for less than one hundred eighty days as allowed under WAC 173-303-201 and 173-303-202;

(b) Generators who treat dangerous waste on-site in accumulation tanks, containers, and containment buildings provided that the generator maintains a log showing the date and amount of waste treated and complies with:

(i) The applicable requirements of WAC 173-303-200, 173-303-201, and 173-303-202; and

(ii) WAC 173-303-283(3);

(c) Generators who treat special waste on-site provided:

(i) The accumulation standards of WAC 173-303-073 (2)(a) and (b) are met;

(ii) When treated in units other than tanks or containers, the unit is designed, constructed, and operated in a manner that prevents:

(A) A release of waste and waste constituents to the environment;

(B) Endangerment of health of employees or the public;

(C) Excessive noise;

(D) Negative aesthetic impact on the use of adjacent property.

(iii) The treatment unit must also be inspected routinely for deterioration that would lead to a release and repairs must be conducted promptly.

(4) The generator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

(5) Persons responding to an explosives or munitions emergency in accordance with WAC 173-303-400 (2)(c)(xiii)(A)(IV) or 173-303-600 (3)(p)(i)(D) or (3)(p)(iv), and WAC 173-303-800 (7)(c)(i)(D) or (7)(c)(i)(E) are not required to comply with the standards of WAC 173-303-170 through 173-303-230.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-170, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-170, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 95-22-008 (Order 94-30), § 173-303-170, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-170, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapter 70.105 RCW. 88-02-057 (Order DE 83-36), § 173-303-170, filed 1/5/88, effective 2/5/88; 87-14-029 (Order DE-87-4), § 173-303-170, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-170, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-170, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-170, filed 2/10/82.]

WAC 173-303-200 Accumulating dangerous waste on-site. (1) A generator, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on-site without a permit for ninety days or less after the date of generation, provided that:

(a) All such waste is shipped off-site to a designated facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845 or recycled or treated on-site in ninety days or less. The department may, on a case-by-case basis, grant a maximum thirty day extension to this ninety day period if dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances. A generator who accumulates dangerous waste for more than ninety days is an operator of a storage facility and is subject to the facility requirements of this chapter and the permit requirements of this chapter as a storage facility unless he has been granted an extension to the ninety day period allowed pursuant to this subsection;

(b)(i) The waste is placed in containers and the generator complies with WAC 173-303-630 (2), (3), (4), (5), (6), (8), (9), (10), and 40 CFR Part 265 Subparts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a). For container accumulation (including satellite areas as described in subsection (2) of this section), the department may require that the accumulation area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being accumulated, or due to a history of spills or releases from accumulated containers. In addition, any new container accumulation areas (but not including new satellite areas, unless required by the department) constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7); and/or

(ii) The waste is placed in tanks and the generator complies with 40 CFR Part 265 Subparts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a) and 173-303-640 (2) through (10), except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a). (Note: A generator, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section.) Such a generator is exempt from the requirements of WAC 173-303-620 and 173-303-610, except for WAC 173-303-610 (2) and (5); and/or

(iii) The waste is placed on drip pads and the generator complies with WAC 173-303-675 and maintains the following records at the facility:

(A) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or

(iv) The waste is placed in containment buildings and the generator complies with 40 CFR Part 265 Subpart DD, which is incorporated by reference, and the generator has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's operating record no later than sixty days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the ninety-day limit, and documentation that the procedures are complied with; or

(B) Documentation that the unit is emptied at least once every 90 days.

In addition, such a generator is exempt from all the requirements in WAC 173-303-610 and 173-303-620, except for WAC 173-303-610(2).

(c) The date upon which each period of accumulation begins is marked and clearly visible for inspection on each container;

(d) While being accumulated on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate). The department may also require that a sign be posted at each entrance to the accumulation area, bearing the legend, "danger—unauthor-

ized personnel keep out," or an equivalent legend, written in English, and legible from a distance of twenty-five feet or more; and

(e) The generator complies with the requirements for facility operators contained in:

(i) WAC 173-303-330 through 173-303-360 (personnel training, preparedness and prevention, contingency plan and emergency procedures, and emergencies) except for WAC 173-303-355 (SARA Title III coordination); and

(ii) WAC 173-303-320 (1), (2)(a), (b), (d), and (3) (general inspection); and

(f) The generator complies with 40 CFR 268.7(a)(5).

(2) Satellite accumulation.

(a) A generator may accumulate as much as fifty-five gallons of dangerous waste or one quart of acutely hazardous waste per waste stream in containers at or near any point of generation where waste initially accumulates (defined as a satellite accumulation area in WAC 173-303-040). The satellite area must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes to a satellite container. Satellite accumulation is allowed without a permit provided the generator:

(i) Complies with WAC 173-303-630 (2), (4), (5) (a) and (b), (8)(a), and (9) (a) and (b); and

(ii) Complies with subsection (1)(d) of this section.

(b) When fifty-five gallons of dangerous waste or one quart of acutely hazardous waste is accumulated per waste stream, the container(s) must be marked immediately with the accumulation date and moved within three days to a designated storage or accumulation area.

(c) On a case-by-case basis the department may require the satellite area to be managed in accordance with all or some of the requirements under subsection (1) of this section, if the nature of the wastes being accumulated, a history of spills or releases from accumulated containers, or other factors are determined by the department to be a threat or potential threat to human health or the environment.

(3) For the purposes of this section, the ninety-day accumulation period begins on the date that:

(a) The generator first generates a dangerous waste; or

(b) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the accumulation limit for such waste (or wastes); or

(c) Fifty-five gallons of dangerous waste or one quart of acutely hazardous waste, per waste stream, is accumulated in a satellite accumulation area.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-200, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-200, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 95-22-008 (Order 94-30), § 173-303-200, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-200, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-200, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-200, filed 1/4/89; 86-12-057 (Order DE-85-10), § 173-303-200, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-200, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-200, filed 2/10/82.]

WAC 173-303-283 Performance standards. (1) Purpose. This section provides general performance standards for designing, constructing, operating, and maintaining dangerous waste facilities.

(2) Applicability. This section applies to all dangerous waste facilities permitted under WAC 173-303-800 through 173-303-840. These general performance standards must be used to determine whether more stringent facility standards should be applied than those spelled out in WAC 173-303-280, 173-303-290 through 173-303-400 and 173-303-600 through 173-303-692.

(3) Performance standards. Unless authorized by state, local, or federal laws, or unless otherwise authorized in this regulation, the owner/operator must design, construct, operate, or maintain a dangerous waste facility that to the maximum extent practical given the limits of technology prevents:

(a) Degradation of ground water quality;

(b) Degradation of air quality by open burning or other activities;

(c) Degradation of surface water quality;

(d) Destruction or impairment of flora and fauna outside the active portion of the facility;

(e) Excessive noise;

(f) Conditions that constitute a negative aesthetic impact for the public using rights of ways, or public lands, or for landowners of adjacent properties;

(g) Unstable hillsides or soils as a result of trenches, impoundments, excavations, etc.;

(h) The use of processes that do not treat, detoxify, recycle, reclaim, and recover waste material to the extent economically feasible; and

(i) Endangerment of the health of employees, or the public near the facility.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-283, filed 3/13/03, effective 4/13/03; 95-22-008 (Order 94-30), § 173-303-283, filed 10/19/95, effective 11/19/95. Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-283, filed 9/6/88.]

WAC 173-303-380 Facility recordkeeping. (1) Operating record. The owner or operator of a facility must keep a written operating record at their facility. The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(a) A description of and the quantity of each dangerous waste received or managed on-site, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by subsection (2) of this section, recordkeeping instructions;

(b) The location of each dangerous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each dangerous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;

(c) Records and results of waste analyses, waste determinations (as required by Subpart CC), and trial tests required by WAC 173-303-300, General waste analysis, and by 40 CFR sections 264.1034, 264.1063, 264.1083, 265.1034, 265.1063, 265.1084, 268.4(a), and 268.7;

(d) Summary reports and details of all incidents that require implementing the contingency plan, as specified in WAC 173-303-360 (2)(k);

(e) Records and results of inspections as required by WAC 173-303-320 (2)(d), General inspection (except such information need be kept only for five years);

(f) Monitoring, testing, or analytical data, and corrective action where required by 40 CFR Part 265 Subparts F through R and sections 265.1034 (c) through (f), 265.1035, 265.1063 (d) through (i), 265.1064, and 265.1083 through 265.1090 for interim status facilities, and by WAC 173-303-630 through 173-303-695 and 40 CFR sections 264.1034 (c) through (f), 264.1035, 264.1063 (d) through (i), 264.1064, and 264.1082 through 264.1090 for final status facilities;

(g) All closure and post-closure cost estimates required for the facility;

(h) For off-site facilities, copies of notices to generators informing them that the facility has all appropriate permits, as required by WAC 173-303-290, Required notices;

(i) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to 40 CFR 268.5, a petition pursuant to 40 CFR 268.6, and the applicable notice required by a generator under 40 CFR 268.7(a);

(j) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under 40 CFR 268.7;

(k) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7;

(l) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under 40 CFR 268.7;

(m) For an on-site land disposal facility, the information contained in the notice required by the generator or owner or operator of a treatment facility under 40 CFR 268.7, except for the manifest number;

(n) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7;

(o) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7; and

(p) Any records required under WAC 173-303-280(6).

(2) Recordkeeping instructions. This paragraph provides instructions for recording the portions of the operating record which are related to describing the types, quantities, and management of dangerous wastes at the facility. This information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility, as follows:

(a) Each dangerous waste received, treated, stored, or disposed of at the facility must be described by its common name and by its dangerous waste number(s) from WAC 173-303-080 through 173-303-104. Each listed, characteristic, and criteria waste has its own four-digit dangerous waste number. Where a dangerous waste contains more than one process waste or waste constituent the waste description must include all applicable dangerous waste numbers. If the dangerous waste number is not listed, the waste description must include the process which generated the waste;

(b) The waste description must include the waste's physical form (i.e., liquid, solid, sludge, or contained gas);

(c) The estimated or manifest-reported weight, or volume and density, where applicable, of the dangerous waste must be recorded, using one of the units of measure specified in Table 1, below; and

TABLE 1

Unit of Measure	Code[1]
Gallons	G
Gallons per Hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Short tons (2000 lbs)	T
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S
Pounds	P
Pounds per Hour	J
Kilograms	K
Kilograms per Hour	R
Cubic yards	Y
Cubic meters	C
Acres	B
Acres-feet	A
Hectares	Q
Hectare-meter	F
Btu's per Hour	I

Footnote: [1]Single-digit symbols are used here for data processing purposes.

(d) The method(s) (by handling code(s)) of management for each dangerous waste received or managed, and the date(s) of treatment, recycling, storage, or disposal must be recorded, using the handling code(s) specified in Table 2, below.

TABLE 2 - Handling Codes for Treatment, Storage, and Disposal Methods

Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of dangerous waste received.

1. Storage
   - S01 Container (barrel, drum, etc.)
   - S02 Tank
   - S03 Waste pile
   - S04 Surface impoundment
   - S05 Drip Pad
   - S06 Containment Building (Storage)
   - S99 Other storage (specify)

2. Treatment
   - (a) Thermal Treatment

T06 Liquid injection incinerator
T07 Rotary kiln incinerator
T08 Fluidized bed incinerator
T09 Multiple hearth incinerator
T10 Infrared furnace incinerator
T11 Molten salt destructor
T12 Pyrolysis
T13 Wet air oxidation
T14 Calcination
T15 Microwave discharge
T18 Other (specify)
(b) Chemical treatment
T19 Absorption mound
T20 Absorption field
T21 Chemical fixation
T22 Chemical oxidation
T23 Chemical precipitation
T24 Chemical reduction
T25 Chlorination
T26 Chlorinolysis
T27 Cyanide destruction
T28 Degradation
T29 Detoxification
T30 Ion exchange
T31 Neutralization
T32 Ozonation
T33 Photolysis
T34 Other (specify)
(c) Physical treatment
(i) Separation of components
T35 Centrifugation
T36 Clarification
T37 Coagulation
T38 Decanting
T39 Encapsulation
T40 Filtration
T41 Flocculation
T42 Flotation
T43 Foaming
T44 Sedimentation
T45 Thickening
T46 Ultrafiltration
T47 Other (specify)
(ii) Removal of specific components
T48 Absorption-molecular sieve
T49 Activated carbon
T50 Blending
T51 Catalysis
T52 Crystallization
T53 Dialysis
T54 Distillation
T55 Electrodialysis
T56 Electrolysis
T57 Evaporation
T58 High gradient magnetic separation
T59 Leaching
T60 Liquid ion exchange
T61 Liquid-liquid extraction
T62 Reverse osmosis
T63 Solvent recovery
T64 Stripping
T65 Sand filter
T66 Other (specify)
(d) Biological treatment
T67 Activated sludge
T68 Aerobic lagoon
T69 Aerobic tank
T70 Anaerobic tank
T71 Composting
T72 Septic tank
T73 Spray irrigation
T74 Thickening filter
T75 Trickling filter
T76 Waste stabilization pond
T77 Other (specify)
T78-79 (Reserved)
(e) Boilers and industrial furnaces
T80 Boiler
T81 Cement kiln
T82 Lime kiln
T83 Aggregate kiln
T84 Phosphate kiln
T85 Coke oven
T86 Blast furnace
T87 Smelting, melting, or refining furnace
T88 Titanium dioxide chloride process oxidation reactor
T89 Methane reforming furnace
T90 Pulping liquor recovery furnace
T91 Combustion device used in the recovery of sulfur values from spent sulfuric acid
T92 Halogen acid furnaces
T93 Other industrial furnaces listed in WAC 173-303-040 (specify)
(f) Other treatment
T94 Containment building (treatment)

3. Disposal
D79 Underground injection
D80 Landfill
D81 Land treatment
D82 Ocean disposal
D83 Surface impoundment (to be closed as a landfill)
D99 Other disposal (specify)

4. Miscellaneous (Subpart X)
X01 Open burning/open detonation
X02 Mechanical processing
X03 Thermal unit
X04 Geologic repository
X99 Other Subpart X (specify)

(3) Availability, retention and disposition of records.

(a) All facility records, including plans, required by this chapter must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the department who is designated by the director.

(b) The retention period for all facility records required under this chapter is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the director.

(c) A copy of records of waste disposal locations and quantities under this section must be submitted to the United States EPA regional administrator, the department, and the local land use and planning authority upon closure of the facility.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-380, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-380, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 98-03-018 (Order 97-03), § 173-303-380, filed 1/12/98, effective 2/12/98; 95-22-008 (Order 94-30), § 173-303-380, filed 10/19/95, effective 11/19/95. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-380, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-380, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-380, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-380, filed 2/10/82. Formerly chapter 173-302 WAC.]

WAC 173-303-390 Facility reporting. The owner or operator of a facility is responsible for preparing and submitting the reports described in this section.

(1) Unmanifested waste reports. If a facility accepts any dangerous waste from an off-site source without an accompanying manifest or shipping paper, and if the waste is not excluded from the manifest requirements of this chapter 173-303 WAC, then the owner or operator must prepare and submit a single copy of a report to the department within fifteen days after receiving the waste. The report form and instructions in the Unmanifested Dangerous Waste Report must be used for this report. The report must include at least the following information:

(a) The EPA/state identification number, name, and address of the facility;

(b) The date the facility received the waste;

(c) The EPA/state identification number, name, and address of the generator and the transporter, if available;

(d) A description and the quantity of each unmanifested dangerous waste the facility received;

(e) The method of management for each dangerous waste;

(f) The certification signed by the owner or operator of the facility or his authorized representative; and

(g) A brief explanation of why the waste was unmanifested, if known.

(2) Annual reports. The owner or operator of a facility that holds an active EPA/state identification number must prepare and submit a single copy of an annual report to the department by March 1 of each year. The report form and instructions in the Dangerous Waste Annual Report (which may be obtained from the department) must be used for this report. In addition, any facility which ships dangerous waste off-site must comply with the annual reporting requirements of WAC 173-303-220. The annual report must cover facility activities during the previous calendar year and must include, but is not limited to the following information:

(a) The EPA/state identification number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA/state identification number of each dangerous waste generator from which the facility received a dangerous waste during the year. For imported shipments, the report must give the name and address of the foreign generator;

(d) A description and the quantity of each dangerous waste the facility received during the year. For off-site facilities, this information must be listed by EPA/state identification number of each generator;

(e) The method of treatment, storage, or disposal for each dangerous waste;

(f) The most recent closure cost estimate under WAC 173-303-620(3) (or 40 CFR 265.142 for interim status facilities), and for disposal facilities, the most recent post-closure cost estimate under WAC 173-303-620(5) (or 40 CFR 265.144 for interim status facilities); and

(g) The certification signed in accordance with the requirements of WAC 173-303-810(12).

(3) Additional reports. The owner or operator must report to the department:

(a) Releases of dangerous wastes, fires, and explosions as specified in WAC 173-303-360 (2)(k);

(b) Interim status ground water monitoring data, as specified in 40 CFR 265.94 (a)(2) and (b)(2);

(c) Facility closures specified in WAC 173-303-610(6); and

(d) As otherwise required by WAC 173-303-645 through 173-303-665, WAC 173-303-690 through 173-303-692, and WAC 173-303-400.

The owner or operator must also submit any other reports (including engineering reports, plans, and specifications) required by the department.

(4) Recordkeeping. The owner/operator of a facility must keep a copy of all unmanifested waste reports, annual reports, and any other reports submitted to the department according to the requirements of this section for a period of three years from the date the report was submitted. Note that some records must be kept until closure of the facility as otherwise required under WAC 173-303-380.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-390, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-390, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 95-22-008 (Order 94-30), § 173-303-390, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-390, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-390, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-390, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-390, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-390, filed 2/10/82.]

WAC 173-303-400 Interim status facility standards. (1) Purpose. The purpose of WAC 173-303-400 is to establish standards which define the acceptable management of dangerous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(2) Applicability.

(a) Except as provided in 40 CFR 265.1080(b), the interim status standards apply to owners and operators of facilities that treat, store, transfer, and/or dispose of dangerous waste. For purposes of this section, interim status applies

to all facilities that comply fully with the requirements for interim status under Section 3005(e) of the Federal Resource Conservation and Recovery Act or WAC 173-303-805. The interim status standards also apply to those owners and operators of facilities in existence on November 19, 1980, for RCRA wastes and those facilities in existence on August 9, 1982, for state only wastes who have failed to provide the required notification pursuant to WAC 173-303-060 or failed to file Part A of the permit application pursuant to WAC 173-303-805 (4) and (5). Interim status will end after final administrative disposition of the Part B permit application is completed, or may be terminated for the causes described in WAC 173-303-805(8).

(b) Interim status facilities must meet the interim status standards by November 19, 1980, except that:

(i) Interim status facilities which handle only state designated wastes (i.e., not designated by 40 CFR Part 261) must meet the interim status standards by August 9, 1982; and

(ii) Interim status facilities must comply with the additional state interim status requirements specified in subsection (3)(c)(ii), (iii) and (v), of this section, by August 9, 1982.

(c) The requirements of the interim status standards do not apply to:

(i) Persons disposing of dangerous waste subject to a permit issued under the Marine Protection, Research and Sanctuaries Act;

(ii) Reserved;

(iii) The owner or operator of a POTW who treats, stores, or disposes of dangerous wastes, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(4);

(iv) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment units as defined in WAC 173-303-040, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(5);

(v) Generators accumulating waste for less than ninety days except to the extent WAC 173-303-200 provides otherwise;

(vi) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(vii) The compaction or sorting, by a generator, of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(viii) Generators treating dangerous waste on-site in tanks, containers, or containment buildings that are used for accumulation of such wastes provided the generator complies with the WAC 173-303-170(3);

(ix) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in WAC 173-303-040, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 40 CFR section 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in WAC 173-303-395 (1)(a); and

(x) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance.

(xi) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.

(A) Batteries as described in WAC 173-303-573(2); and

(B) Thermostats as described in WAC 173-303-573(3).

(C) Lamps as described in WAC 173-303-573(5).

(xii) WAC 173-303-578 identifies when the requirements of this section apply to the storage of military munitions classified as solid waste under WAC 173-303-578(2). The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards in this chapter.

(xiii)(A) Except as provided in (c)(xiii)(B) of this subsection, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(I) A discharge of a dangerous waste;

(II) An imminent and substantial threat of a discharge of dangerous waste;

(III) A discharge of a material that, when discharged, becomes a dangerous waste;

(IV) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.

(B) An owner or operator of a facility otherwise regulated by WAC 173-303-600 must comply with all applicable requirements of WAC 173-303-340 and 173-303-350.

(C) Any person who is covered by (c)(xiii)(A) of this section and who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(D) In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA/state identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying

the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(3) Standards.

(a) Interim status standards are the standards set forth by the Environmental Protection Agency in 40 CFR Part 265 Section 265.19 of Subpart B, Subparts F through R, Subpart W, Subparts AA, BB, CC (including references to 40 CFR Parts 60, 61, and 63), DD, EE, and Appendix VI, which are incorporated by reference into this regulation (including, by reference, any EPA requirements specified in those subparts which are not otherwise explicitly described in this chapter), and:

(i) The land disposal restrictions of WAC 173-303-140; the facility requirements of WAC 173-303-280 through 173-303-440 except WAC 173-303-335; and the corrective action requirements of WAC 173-303-646;

(ii) WAC 173-303-630(3), for containers. In addition, for container storage, the department may require that the storage area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being stored, or due to a history of spills or releases from stored containers. Any new container storage areas constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7).

(iii) WAC 173-303-640 (5)(d), for tanks; and

(iv) WAC 173-303-805.

(b) For purposes of applying the interim status standards of 40 CFR Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, CC, DD, and EE to the state of Washington facilities, the federal terms have (and in the case of the wording used in the financial instruments referenced in Subpart H of Part 265, must be replaced with) the following state of Washington meanings:

(i) "Regional administrator" means the "department" except for 40 CFR Parts 270.2; 270.3; 270.5; 270.10 (e)(1),(2) and (4); 270.10 (f) and (g); 270.11 (a)(3); 270.14 (b)(20); 270.32 (b)(2); and 270.51;

(ii) "Hazardous" means "dangerous" except for Subparts AA, BB, CC, and DD. These subparts apply only to hazardous waste as defined in WAC 173-303-040;

(iii) "Compliance procedure" has the meaning set forth in WAC 173-303-040, Definitions;

(iv) "EPA hazardous waste numbers" mean "dangerous waste numbers".

(c) In addition to the changes described in (b) of this subsection, the following modifications are made to interim status standards of 40 CFR Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, CC, DD, and EE:

(i) The words "the effective date of these regulations" means:

(A) November 19, 1980, for facilities which manage any wastes designated by 40 CFR Part 261;

(B) For wastes which become designated by 40 CFR Part 261 subsequent to November 19, 1980, the effective date is the date on which the wastes become regulated;

(C) March 12, 1982, for facilities which manage wastes designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 CFR Part 261;

(D) For wastes which become designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 CFR Part 261 subsequent to March 12, 1982, the effective date is the date on which the wastes become regulated.

(ii) "Subpart N - landfills" has an additional section added which reads: "An owner/operator must not landfill an organic carcinogen or an EHW, as defined by WAC 173-303-080 through 173-303-100, except at the EHW facility at Hanford";

(iii) "Subpart R - underground injection" has an additional section which reads: "Owners and operators of wells are prohibited from disposing of EHW or an organic carcinogen designated under WAC 173-303-080 through 173-303-100";

(iv) "Subpart M - land treatment," section 265.273(b) is modified to replace the words "Part 261, Subpart D of this chapter" with "WAC 173-303-080";

(v) "Subpart F - ground water monitoring," section 265.91(c) includes the requirement that: "Ground water monitoring wells must be designed, constructed, and operated so as to prevent ground water contamination. Chapter 173-160 WAC may be used as guidance in the installation of wells";

(vi) "Subpart H - financial requirements" has an additional section which reads: "Any owner or operator who can provide financial assurances and instruments which satisfy the requirements of WAC 173-303-620 will be deemed to be in compliance with 40 CFR Part 265 Subpart H" In 40 CFR Parts 265.143(g) and 265.145(g) the following sentence does not apply to the state: "If the facilities covered by the mechanisms are in more than one Region, identical evidence of financial assurance must be submitted to, and maintained with the Regional Administrators of all such Regions." Instead, the following sentence applies: "If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state." In addition, the following sections and any cross-reference to these sections are not incorporated by reference: 40 CFR Parts 265.149 and 265.150; and

(vii) "Subpart J - tank systems" section 265.193(a) is modified so that the dates by which secondary containment (which meets the requirements of that section) must be provided are the same as the dates in WAC 173-303-640 (4)(a).

(viii) "Subpart J - tank systems" section 265.191(a) is modified so that the date by which an assessment of a tank system's integrity must be completed is January 12, 1990.

(ix) "Subpart G - closure and post-closure" section 265.115 is modified to read "Within 60 days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas) and within 60 days of completion of final closure..." In addition, the clean-up levels for removal or decontamination set forth at WAC 173-303-610 (2)(b) apply.

(x) "Subpart B - general facility standards. References to "EPA" (etc.), means the "department" except at 40 CFR 265.11. Additionally, references to "administrator" (etc.), means the "director" except at 40 CFR 265.12(a)."

(xi) The following sections and any cross-reference to these sections are not incorporated or adopted by reference:

(A) 40 CFR Parts 260.1 (b)(4)-(6) and 260.20-22.

(B) 40 CFR Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301(k); and 265.430.

(C) 40 CFR Parts 268.5 and 6; 268 Subpart B; 268.42(b); and 268.44 (a) through (g).

(D) 40 CFR Parts 270.1 (c)(1)(i); 270.60(b); and 270.64.

(E) 40 CFR Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.

(F) 40 CFR Parts 2.106(b); 2.202(b); 2.205(i); 2.209 (b)-(c); 2.212-213; and 2.301-311.

(G) 40 CFR 265.110(c), 40 CFR 265.118 (c)(4), 40 CFR 265.121 and 40 CFR 265.1080 (e) and (f).

(xii) "Subpart EE - Hazardous waste munitions and explosives storage." The first sentence at 40 CFR 265.1202 is modified to exclude the exception for hazardous wastes managed under 261.3(d).

(4) The requirements of this section apply to owners or operators of all facilities that treat, store or dispose of hazardous waste referred to in 40 CFR Part 268, and the 40 CFR Part 268 standards are considered material conditions or requirements of the interim status standards incorporated by reference in subsection (3) of this section.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-400, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-400, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 98-03-018 (Order 97-03), § 173-303-400, filed 1/12/98, effective 2/12/98; 95-22-008 (Order 94-30), § 173-303-400, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-400, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-400, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-400, filed 1/4/89; 88-02-057 (Order DE 83-36), § 173-303-400, filed 1/5/88, effective 2/5/88; 87-14-029 (Order DE-87-4), § 173-303-400, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-400, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-400, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-400, filed 2/10/82.]

WAC 173-303-500 Recycling requirements for state-only dangerous waste. (1) Applicability. This section applies to the recycling of state-only dangerous waste that are not regulated as hazardous wastes (defined in WAC 173-303-040) by EPA. (Also, see WAC 173-303-120 (3) and (5).)

(2) Standards.

(a) If state-only dangerous wastes are recycled in any of the ways described in WAC 173-303-505 through 173-303-525, then such recycling is subject to the respective requirements of WAC 173-303-505 through 173-303-525, except as provided in (c) of this subsection.

(b) If state-only dangerous wastes are recycled in any way not specifically described in WAC 173-303-505 through 173-303-525, then such recycling is subject to the requirements of WAC 173-303-120(4), except as provided in (c) of this subsection.

(c) Recyclers who receive state-only dangerous wastes from off-site and who store the wastes in containers or tanks may, in lieu of the provisions for storing dangerous wastes prior to recycling, comply with:

(i) WAC 173-303-060;

(ii) WAC 173-303-370 (if the dangerous waste received must be accompanied by a manifest); and

(iii) The following requirements, provided that the dangerous waste is recycled within ninety days of the date it is received by the recycler:

(A) WAC 173-303-330 through 173-303-360;

(B) WAC 173-303-630 (2), (3), (4), (5), (6), (8) and (9), for containers;

(C) WAC 173-303-640 (3), (4), (5), (6) and (7), for tanks; and

(D) WAC 173-303-630(7) for new container areas installed after September 30, 1986, and WAC 173-303-640(2) for new tanks installed after September 30, 1986.

(d) The department may require a recycler who is storing his waste under the provisions of (c) of this subsection to comply with the provisions for storing dangerous waste prior to recycling specified in WAC 173-303-505 through 173-303-525 and 173-303-120(4) if:

(i) The recycler fails to comply with the requirements of (c) of this subsection; or

(ii) The department determines, on a case-by-case basis, that the requirements of (c) of this subsection do not adequately protect public health or the environment.

(3) Relief from standards. The owner/operator of a facility recycling dangerous wastes under the provisions of this section may ask the department to provide relief from any of the applicable requirements of this section. Requests for relief must be submitted as described in (a) of this subsection. Requests for relief will be approved or denied as described in (b) of this subsection.

(a) A request for relief must be submitted by the recycler to the department in writing and must describe the standards from which the recycler is seeking relief. The request must include:

(i) The facility name, EPA/state identification number, address, telephone number, and a contact person at the facility;

(ii) The waste(s) managed at the facility and the type(s) recycling;

(iii) The specific standards from which the owner/operator seeks relief;

(iv) A description, for each standard, demonstrating:

(A) Why the owner/operator believes the standard to be unnecessary;

(B) How public health and the environment will continue to be protected if the standard is not applied to the facility; and

(C) Any evidence supporting the contention that public health and the environment will be adequately protected if the standard is not applied (e.g., test data, diagrams, experiences at similar facilities, records, reports, etc.); and

(v) The following certification, signed and dated by a person who would be authorized to sign a report under WAC 173-303-810 (12)(b):

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this request and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant pen-

alties for submitting false information, including the possibility of fine and imprisonment."

The department may ask for any additional information it deems necessary, and will not consider approval of the owner's/operator's request until all necessary information has been submitted. Failure to provide any of the information required may result in the department's denying the owner's/operator's request.

(b) The department will review any requests submitted pursuant to (a) of this subsection, and based on the adequacy of the information provided in the request will approve or deny all or any part of the request. The department will notify the recycler of its decision in writing. If the department decides to approve all or part of the request and the recycler agrees with the department's decision, then the department will proceed to grant the approval as described below. No approval will be effective until the procedures described below have been completed.

(i) For facilities which are required to have a final facility permit, the department will follow the procedures for issuing (or, for facilities which already have a final facility permit, the procedures for modifying) a final facility permit, as described in WAC 173-303-806. The new or modified final facility permit will include the standards the owner/operator must meet.

(ii) For all other types of recycling facilities, the department will issue a notice of modification stating what standards will be applied. Before issuing the notice of modification, the department will provide public notice of its intent, will allow thirty days for public comment, and will hold a public hearing if there is a significant degree of public interest or there is written notice of opposition and the department receives a request for a hearing during the comment period. Notice of a public hearing will be provided at least fifteen days in advance, and the public comment period will be extended to include the date of the hearing if it will occur after the initial thirty-day comment period. Within fifteen days of the end of the public comment period the department will, based on comments received, issue, modify and issue, or deny the notice of modification.

(c) Failure to comply with the conditions and standards as stated in the permit or notice of modification issued under (b) of this subsection will form a basis for modifying or revoking the permit or notice of modification.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-500, filed 3/13/03, effective 4/13/03; 95-22-008 (Order 94-30), § 173-303-500, filed 10/19/95, effective 11/19/95. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-500, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-500, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-500, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-500, filed 2/10/82.]

WAC 173-303-505 Special requirements for recyclable materials used in a manner constituting disposal. (1) Applicability. (Also, see WAC 173-303-120(3).)

(a) This section applies to recyclable materials that are applied to or placed on the land:

(i) Without mixing with any other substance(s); or

(ii) After mixing or combining with any other substance(s). These materials will be referred to as "materials used in a manner that constitutes disposal."

(b)(i) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means and if such products meet the applicable treatment standards in 40 CFR Part 268 Subpart D (or applicable prohibition levels in 268.32 or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain. Registered commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not subject to regulation provided they meet these same treatment standards or prohibition levels for each recyclable material that they contain. For the purpose of implementation of this section, fertilizers that contain recyclable material derived from state-only waste must also meet the treatment standards in 40 CFR Part 268 Subpart D that apply to the characteristics of dangerous waste that the state-only waste exhibits. The prohibition levels for fertilizer using K061, in mg/l, are as follows: Arsenic, 5.0; Barium, 100.0; Cadmium, 1.0; Chromium (Total), 5.0; Lead, 5.0; Mercury, 0.20; Selenium, 5.7; and Silver, 5.0. The department may recommend registration under chapter 15.54 RCW for a waste-derived fertilizer (including fertilizers that contain recyclable material) or micronutrient fertilizer: Provided, That the registrant submits the information described in (b)(i)(A) or (B) of this subsection:

(A) Initial Criteria.

(I) The applicable Land Disposal Restriction (LDR) Certification as described in 40 CFR Part 268, or toxicity characteristic leaching procedure (TCLP) data that indicate the product contains less than the maximum concentrations for TCLP metals described in WAC 173-303-090(8); and

(II) Total Halogenated Organic Compounds (HOC) test data that indicate the product contains less than 1% total HOC.

(B) Secondary Criteria.

(I) A complete description of the fertilizer manufacturing process, including the location of the manufacturing facility; and

(II) A complete list of all ingredients used in manufacturing the fertilizer and a complete description of the sources of those ingredients, including a description of the original process and location for each of those ingredients; and

(III) Evidence that any waste(s) used in manufacturing the product does not designate as dangerous waste according to procedures described in WAC 173-303-070; and

(IV) Other information as required by the department.

(ii) Antiskid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of dangerous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in (b)(i) of this subsection and remain subject to regulation.

(2) Recyclable materials used in a manner that constitutes disposal are dangerous wastes and are subject to the following requirements:

(a) For generators, WAC 173-303-170 through 173-303-230;

(b) For transporters, WAC 173-303-240 through 173-303-270; and

(c) For facilities that store or use dangerous wastes in a manner constituting disposal, the applicable requirements of 40 CFR Part 268 (incorporated by reference in WAC 173-303-140 (2)(a)) and 173-303-280 through 173-303-840 (except that users of such products are not subject to these standards if the products meet the requirements of subsection (1)(b) of this section).

(d) The use of waste oil, used oil, or other material that is contaminated with dioxin or any other dangerous waste for dust suppression or road treatment is prohibited.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-505, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-505, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 98-03-018 (Order 97-03), § 173-303-505, filed 1/12/98, effective 2/12/98; 95-22-008 (Order 94-30), § 173-303-505, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-505, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-505, filed 1/4/89; 86-12-057 (Order DE-85-10), § 173-303-505, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-505, filed 4/18/84.]

WAC 173-303-506 Special requirements for the recycling of spent CFC or HCFC refrigerants. (1) Applicability. (Also, see WAC 173-303-120(3).)

(a) This section applies to spent chlorofluorocarbon (CFC) and hydrochlorofluorocarbon (HCFC) refrigerants that are reclaimed or recycled. Refrigerants eligible for these special requirements are those CFCs and HCFCs that were used as heat transfer material in a refrigeration cycle in totally enclosed heat transfer equipment and are subsequently reclaimed or recycled.

(b) Persons who generate, transport, or store spent CFC or HCFC refrigerants prior to reclamation or recycling and facilities that reclaim or recycle spent CFC or HCFC refrigerants are subject to the requirements of this section, and WAC 173-303-050, 173-303-145, and 173-303-960. Spent CFC or HCFC refrigerants that are not reclaimed or recycled are subject to all the applicable requirements of chapter 173-303 WAC. Any discharge of spent CFCs or HCFCs to the environment constitutes disposal and is subject to full regulation under chapter 173-303 WAC.

(2) Generator requirements.

(a) Persons who reclaim or recycle their spent CFC or HCFC refrigerants, either on-site or send their wastes off-site to be reclaimed or recycled, must keep records for a period of at least five years from the date of reclamation/recycling to document:

(i) The date of shipment (if sent off-site);

(ii) The quantity (by weight) reclaimed/recycled per shipment (when sent off-site) or batch (when recycled on-site);

(iii) The percentage of the total amount of CFC or HCFC wastes reclaimed/recycled per shipment or batch (and the manner of disposal for the remaining CFCs or HCFCs); and

(iv) The dates of reclamation/recycling.

(b) For CFCs or HCFCs sent off-site, the generator must obtain a signed document from the reclamation facility certifying the information in (a) of this subsection.

(3) Reclamation facility requirements.

(a) Facilities that reclaim or recycle CFC or HCFC refrigerants must comply with all the requirements of WAC 173-303-500 (except for WAC 173-303-500 (2)(c)(ii)). The applicable provisions of the following sections will also apply:

(i) WAC 173-303-280(2), General requirements for dangerous waste management facilities, imminent hazard;

(ii) WAC 173-303-283, Performance standards;

(iii) WAC 173-303-290 (1) and (2), Required notices;

(iv) WAC 173-303-380, Facility recordkeeping; except for WAC 173-303-380 (1)(c), (e), and (h);

(v) WAC 173-303-390(3), Facility reporting;

(vi) WAC 173-303-630(10), Use and management of containers;

(vii) WAC 173-303-640 (1), (2), (8), and (10), Tank systems, except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a) (i.e., a recycler, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section).

(b) The reclamation facility must supply generators with a signed document certifying the information in subsection (2)(a) of this section.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-506, filed 3/13/03, effective 4/13/03; 95-22-008 (Order 94-30), § 173-303-506, filed 10/19/95, effective 11/19/95. Statutory Authority: Chapter 70.105 RCW. 93-02-050 (Order 92-32), § 173-303-506, filed 1/5/93, effective 2/5/93.]

WAC 173-303-510 Special requirements for dangerous wastes burned for energy recovery. (1) Applicability. (Also, see WAC 173-303-120(3).)

(a) This section applies to generators, marketers, transporters, blenders, and burners of dangerous waste fuels that are to be burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, except as provided by (b) of this subsection. These regulations do not apply to gas recovered from dangerous waste management activities when such gas is burned for energy recovery. Note: (This note is a reminder that all generators, transporters, and burners of federally regulated hazardous waste fuels that are to be burned for energy recovery, and all storage facility owners and operators of facilities that store dangerous waste that is burned in a boiler or industrial furnace must comply with the requirements of 40 CFR Part 266 Subpart H.)

(b) The following dangerous wastes are not subject to regulation under this section:

(i) Used oil burned for energy recovery if it is a dangerous waste because it:

(A) Exhibits a characteristic of dangerous waste identified in WAC 173-303-090; or

(B) Is designated as DW only (and not EHW) through the criteria of WAC 173-303-100.

Such used oil is subject to regulation under WAC 173-303-515 rather than this section.

Note: Used oil burned for energy recovery containing a listed waste or a waste designated as EHW through the criteria of WAC 173-303-100 (a) and (b) is subject to this section.

(ii) (Reserved.)

(2) Definitions. Any terms used in this section that are not defined below have the meanings provided in WAC 173-303-040. For the purposes of this section, the following terms have the described meanings:

(a) "Dangerous waste fuel" means dangerous waste burned or to be burned for energy recovery. Fuel produced from dangerous waste by processing, blending, or other treatment is also dangerous waste fuel.

(b) "Distributor" means persons who distribute but do not process or blend dangerous waste fuel. Distributors may broker fuel by arranging for the final disposition of the fuel. Distributors are regulated under subsection (6) of this section.

(c) "Blender" means persons who produce, process, or blend fuel from dangerous wastes. Blenders are regulated under subsection (7) of this section.

(d) "Marketer" means persons who are:

(i) Generators who market dangerous waste fuel directly to a burner. Generators are regulated under subsection (4) of this section;

(ii) Distributors, regulated under subsection (6) of this section;

(iii) Blenders, regulated under subsection (7) of this section.

(3) Prohibitions.

(a) A person may market dangerous waste fuel only:

(i) To persons, in state, who have notified the department of their dangerous waste fuel activities under WAC 173-303-060 and have an EPA/state identification number or to out-of-state marketers or burners who have notified the EPA or authorized state agency and who have an EPA/state identification number; and

(ii) When marketed to a burner, to persons who burn the fuel in boilers or industrial furnaces identified in (b) of this subsection.

(b) Dangerous waste fuel may be burned for energy recovery in the following devices only;

(i) Industrial furnaces identified in WAC 173-303-040;

(ii) Boilers, as defined in WAC 173-303-040, that are identified as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

(c) No fuel which contains any dangerous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than five hundred thousand (based on the most recent census statistics) unless such kiln fully complies with regulations under this chapter that are applicable to incinerators.

(4) Standards applicable to generators of dangerous waste fuel.

(a) All generators of dangerous waste that is used as a fuel or used to produce a fuel are subject to WAC 173-303-170 through 173-303-230.

(b) Generators who are marketers. Generators are marketers if they send their waste fuel directly to a burner. Generators who are marketers must:

(i) Prohibitions. Comply with the prohibitions under subsection (3) of this subsection.

(ii) Notification. Comply with the notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Generators who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(iii) Accumulation. Comply with accumulation requirements of WAC 173-303-200 or 173-303-201.

(iv) Storage. For generators who have interim or final status and exceed the accumulation time frames referenced in (b)(iii) of this subsection, comply with the storage provisions of:

(A) WAC 173-303-280 through 173-303-395; and

(B) WAC 173-303-800 through 173-303-840; and

(C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities.

(v) Required notice. Obtain, prior to initiating the first shipment of dangerous waste fuel, a one time written and signed certification notice from the burner certifying that:

(A) The burner has notified as described under subsection (3) of this subsection; and

(B) The burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this subsection.

(vi) Recordkeeping. Keep a copy of each certification notice received for at least five years from the date of the last dangerous waste fuel shipment to the burner who sent such notice.

(c) Generators who are burners also are subject to subsection (8) of this section.

(5) Standards applicable to transporters of dangerous waste fuel. Transporters of dangerous waste fuel (and dangerous waste that is used to produce a fuel) are subject to the requirements of WAC 173-303-240 through 173-303-270.

(6) Standards applicable to distributors of dangerous waste fuel.

(a) Prohibitions. The prohibitions under subsection (3) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Distributors who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(c) Storage. Distributors who store dangerous waste fuels must comply with the applicable storage provisions of:

(i) WAC 173-303-280 through 173-303-395; and

(ii) WAC 173-303-800 through 173-303-840; and

(iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities;

(iv) The standards for generators in WAC 173-303-170 through 173-303-230.

(d) Off-site shipment. A distributor must meet the standards for generators in WAC 173-303-170 through 173-303-

230 when the distributor initiates a shipment of dangerous waste fuel. Except that a distributor may not accumulate dangerous waste fuels under the accumulation provisions of WAC 173-303-200 or 173-303-201;

(e) Required notices.

(i) Before initiating the first shipment of dangerous waste fuel to another distributor, a blender, or a burner, a distributor must obtain a one-time written and signed certification notice from the distributor, blender, or burner certifying that:

(A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(ii) Before accepting the first shipment of dangerous waste fuel from another distributor or blender, the distributor must provide the other distributor or blender with a one-time written and signed certification that the distributor has complied with the notification requirements described in subsection (3) of this section; and

(f) Recordkeeping. A distributor must keep a copy of each certification notice received or sent for at least five years from the date the distributor last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.

(7) Standards applicable to blenders of dangerous waste fuels.

(a) Prohibitions. The prohibitions under subsection (3) of this section.

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Blenders who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(c) Facility. For tanks, containers, or other units used to hold dangerous waste prior to blending or processing; for blending or processing tanks, containers, or other units; and for tanks, containers, or other units, used to hold blended or processed fuel, blenders must comply with the applicable provisions of:

(i) WAC 173-303-280 through 173-303-395; and

(ii) WAC 173-303-800 through 173-303-840; and

(iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities;

(d) Off-site shipment. The standards for generators in WAC 173-303-170 through 173-303-230 when a blender initiates a shipment of dangerous waste fuel, except that a blender may not accumulate dangerous waste fuels under the accumulation provisions of WAC 173-303-200 or 173-303-201;

(e) Required notices.

(i) Before initiating the first shipment of dangerous waste fuel to another blender, a distributor, or a burner, a blender must obtain a one-time written and signed certification notice from the blender, distributor, or burner certifying that:

(A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(ii) Before accepting the first shipment of dangerous waste fuel from another blender or distributor, the blender must provide the other blender or distributor with a one-time written and signed certification that the blender has complied with the notification requirements described in subsection (3) of this section; and

(f) Recordkeeping. A blender must keep a copy of each certification notice received or sent for at least five years from the date the blender last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.

(8) Standards applicable to burners of dangerous waste fuel.

Owners and operators of industrial furnaces and boilers identified in subsection (3)(b) of this section must comply with:

(a) Prohibitions. The prohibitions under subsection (3) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. A burner who has previously notified the department of dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify the dangerous waste fuel activities;

(c) Storage.

(i) For short term accumulation by generators who burn their dangerous waste fuel on-site, the applicable provisions of WAC 173-303-200 or 173-303-201.

(ii) For all burners who store dangerous waste fuel, the applicable storage provisions of:

(A) WAC 173-303-280 through 173-303-395;

(B) WAC 173-303-800 through 173-303-840; and

(C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities (the air emission requirements do not apply to burners that meet the small quantity burner exemption at 40 CFR 266.101);

(d) Required notices. Before a burner accepts the first shipment of dangerous waste fuel from a distributor, or a blender, or a generator the burner must provide the distributor, or the blender, or the generator a one-time written and signed notice certifying that:

(i) The burner has notified as described under subsection (3) of this section; and

(ii) The dangerous waste fuel will only be burned in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(e) Recordkeeping. In addition to the applicable recordkeeping requirements of WAC 173-303-380, a burner must keep a copy of each certification notice sent for at least five years from the date the burner last receives dangerous waste fuel from the person who received the certification notice.

(f) Local requirements. Any person who burns dangerous waste for energy recovery must comply with air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-510, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-510, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 95-22-008 (Order 94-30), § 173-303-510, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-510, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-510, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-510, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-510, filed 3/11/88; 86-12-057 (Order DE-85-10), § 173-303-510, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-510, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-510, filed 2/10/82.]

WAC 173-303-520 Special requirements for reclaiming spent lead acid battery wastes. This section applies to persons who reclaim (including regeneration) spent lead-acid batteries that are recyclable materials ("spent batteries"). (Also, see WAC 173-303-120(3).)

(1) Persons who generate, transport, or collect spent batteries, who regenerate spent batteries, or who store spent batteries but do not reclaim them (other than spent batteries that are to be regenerated) are subject only to the requirements of WAC 173-303-016 through 173-303-161 except for 173-303-060, and WAC 173-303-960 if such spent batteries are going to a battery reclaimer. Persons who reclaim spent batteries through regeneration (such as by electrolyte replacement) are not subject to 40 CFR Part 268, which is incorporated by reference at WAC 173-303-140 (2)(a).

(2) Owners and operators of battery reclaiming facilities that store spent lead acid batteries prior to reclaiming (other than spent batteries that are to be regenerated) them are subject to the following requirements:

(a) For all reclaimers, the applicable storage provisions of:

(i) WAC 173-303-280 (2) and (3);

(ii) WAC 173-303-282;

(iii) WAC 173-303-283;

(iv) WAC 173-303-290;

(v) WAC 173-303-310 through 173-303-360;

(vi) WAC 173-303-380;

(vii) WAC 173-303-390 (2) and (3);

(viii) WAC 173-303-395; and

(ix) WAC 173-303-800 through 173-303-840.

(b) For reclaimers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(c) For reclaimers with final facility permits, the applicable storage provisions of:

(i) WAC 173-303-600 through 173-303-650; and

(ii) WAC 173-303-660.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-520, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-520, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 98-03-018 (Order 97-03), § 173-303-520, filed 1/12/98, effective 2/12/98; 94-01-060 (Order 92-33), § 173-303-520, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-520, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-520, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-520, filed 3/11/88; 86-12-057 (Order DE-85-10), § 173-303-520, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-520, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-520, filed 2/10/82.]

WAC 173-303-522 Special requirements for recycling spent antifreeze. (1) Applicability. This section applies to the recycling of spent antifreeze. Antifreeze means ethylene glycol based coolant used as a heat exchange medium in motor vehicle radiators, motorized equipment, or in other industrial processes. For the purposes of this section recycling means reclamation and reuse, but not burning for energy recovery. (Also, see WAC 173-303-120(3).)

(2) Standards. Persons who generate, transport, or store spent antifreeze but do not reclaim or recycle it are subject to the requirements of WAC 173-303-050, 173-303-145, and 173-303-960 if their spent antifreeze is going to a recycler. Any discharge of spent antifreeze to the environment constitutes disposal and is subject to full regulation under this chapter.

(a) Generator requirements:

(i) Persons who reclaim or recycle their spent antifreeze on-site, or send their antifreeze off-site to be reclaimed or recycled, must keep records for a period of five years from the date of reclamation/recycling.

Proof of reclamation/recycling is either a log for on-site reclamation/recycling or an invoice or bill of lading for off-site reclamation/recycling.

(ii) Containers and tanks used to accumulate spent antifreeze must be labeled "spent antifreeze."

(iii) Spent antifreeze that is to be reclaimed can be accumulated on-site for any length of time, and in any amount.

(iv) During accumulation, spent antifreeze must be stored in a manner to prevent releases to the environment. This includes, but is not limited to, storing wastes in compatible containers, on impermeable surfaces, or in secondary containment structures.

(b) If spent antifreeze is mixed with another dangerous waste, generators are subject to the generator requirements, WAC 173-303-170 through 173-303-230.

(c) Persons who generate spent antifreeze that is not reclaimed/recycled, but is otherwise disposed, are subject to all applicable requirements of this chapter.

(3) Transporters and transfer facility requirements:

(a) Persons engaged in routine off-site transportation of spent antifreeze are required to obtain a state/EPA ID number, WAC 173-303-060, and to comply with the transporter requirements, WAC 173-303-240.

(b) If spent antifreeze is mixed with another dangerous waste, transporters are subject to the generator requirements, WAC 173-303-170 through 173-303-230.

(c) Transporters who store spent antifreeze at a transfer facility are allowed to use tanks or containers as defined in WAC 173-303-040, and store such waste for up to ten days, WAC 173-303-240(6).

Transporters may store spent antifreeze at a transfer facility for longer than ten days if they meet the requirements for tank and/or container management, including secondary containment in WAC 173-303-630 through 173-303-640.

(4) Reclamation/recycling facility requirements: Owners and operators of antifreeze reclaiming/recycling facilities are subject to the conditions of WAC 173-303-120 (4)(c). These conditions apply equally to facilities whether or not

twenty-four-hour storage of spent antifreeze occurs prior to reclamation.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-522, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-522, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 98-03-018 (Order 97-03), § 173-303-522, filed 1/12/98, effective 2/12/98.]

WAC 173-303-525 Special requirements for recyclable material utilized for precious metal recovery. (1) Applicability and requirements. (Also, see WAC 173-303-120(3).)

(a) This section applies to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

(b) Persons who generate, transport, or store recyclable materials that are regulated under this section are subject to the following requirements:

(i) Notification requirements under WAC 173-303-060;

(ii) WAC 173-303-180 (for generators), 173-303-250 (for transporters), and 173-303-370 (for persons who store).

(c) Persons who store recycled materials that are regulated under this section must keep the following records to document that they are not accumulating these materials speculatively (as defined in WAC 173-303-016 (5)(d)(ii));

(i) Records showing the volume of these materials stored at the beginning of the calendar year;

(ii) The amount of these materials generated or received during the calendar year; and

(iii) The amount of materials remaining at the end of the calendar year.

(d) Recyclable materials that are regulated under this section that are accumulated speculatively (as defined in WAC 173-303-016 (5)(d)(ii)) are dangerous wastes and are subject to all applicable provisions of this chapter.

(2) Additional regulation of recyclable materials utilized for precious metal recovery on a case-by-case basis.

The department may decide on a case-by-case basis that persons accumulating or storing recyclable materials utilized for precious metal recovery should be regulated under WAC 173-303-120(4). The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the department will consider the following factors:

(a) The types of materials accumulated or stored and the amounts accumulated or stored;

(b) The method of accumulation or storage;

(c) The length of time the materials have been accumulated or stored before being reclaimed;

(d) Whether any contaminants are being released into the environment, or are likely to be so released; and

(e) Other relevant factors.

The procedures for this decision are set forth in subsection (3) of this section.

(3) Procedures for case-by-case regulation of recyclable materials utilized for precious metal recovery.

The department will use the following procedures when determining whether to regulate recyclable materials utilized for precious metal recovery under the provisions of WAC 173-303-120(4), rather than under the provisions of subsection (1) of this section.

(a) If a generator is accumulating the waste, the department will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of WAC 173-303-170 and 173-303-190 through 173-303-230. The notice will become final within thirty days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the department will hold a public hearing. The department will provide notice of the hearing to the public and allow public participation at the hearing. The department will issue a final order after the hearing stating whether or not compliance with WAC 173-303-170 and 173-303-190 through 173-303-230 is required. The order becomes effective thirty days after service of the decision unless the department specifies a later date or unless review by the department is requested. The order may be appealed to the pollution control hearings board, in accordance with WAC 173-303-845, by any person who participated in the public hearing.

(b) If the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of WAC 173-303-800 through 173-303-840. The owner or operator of the facility must apply for a permit within no less than sixty days and no more than six months of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the department's decision he may do so in his permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the department's determination. The question of whether the department's decision was proper will remain open for consideration during the public comment period discussed under WAC 173-303-840 (4)(d) and in any subsequent hearing.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-525, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-525, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-525, filed 6/3/86.]

WAC 173-303-578 Military munitions. (1) **Applicability.**

(a) The rules in this section identify when military munitions become a solid waste, and, if these wastes are also dangerous under this section or WAC 173-303-016 through 173-303-100, the management standards that apply to these wastes.

(b) Unless otherwise specified in this section, all applicable requirements in this chapter apply to waste military munitions.

(2) **Definition of solid waste.**

(a) A military munition is not a solid waste when:

(i) Used for its intended purpose, including:

(A) Use in training military personnel or explosives and munitions emergency response specialists (including training

in proper destruction of unused propellant or other munitions); or

(B) Use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or

(C) Recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, "use for intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use.

(ii) An unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal as defined in WAC 173-303-016 (5)(a), or burning for energy recovery as defined in WAC 173-303-016 (5)(b).

(b) An unused military munition is a solid waste when any of the following occurs:

(i) The munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in (a) of this subsection), incinerated, or treated prior to disposal; or

(ii) The munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal; or

(iii) The munition is deteriorated or damaged (for example, the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition, and cannot reasonably be recycled or used for other purposes; or

(iv) The munition has been declared a solid waste by an authorized military official.

(c) A used or fired military munition is a solid waste:

(i) When transported off range or from the site of use, where the site of use is not a range, for the purposes of storage, reclamation, treatment, disposal, or treatment prior to disposal; or

(ii) If recovered, collected, and then disposed of by burial, or landfilling either on or off a range.

(d) A used or fired military munition is a solid waste, and, therefore, is potentially subject to corrective action under WAC 173-303-646 or imminent and substantial endangerment authorities under WAC 173-303-960, if the munition lands off-range and is not promptly rendered safe and/or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).

(e) Military munitions at closed or transferred ranges. Munitions discharged during military activities are discarded material (and therefore solid waste) for purposes of WAC 173-303-646 under the following circumstance:

The munition is left in place at the firing range at the time the range is closed or when the range is transferred from military control, whichever occurs first.

(3) **Standards applicable to emergency responses.**

Explosives and munitions emergencies involving military munitions or explosives are subject to WAC 173-303-170(5), 173-303-240(10), 173-303-400 (2)(c)(xiii), 173-303-600 (3)(p), and 173-303-800 (7)(c), or alternatively to WAC 173-303-804.

(4) **Standards applicable to the storage of solid waste military munitions.**

(a) Criteria for dangerous waste regulation of waste nonchemical military munitions in storage.

(i) Waste military munitions in storage that exhibit a dangerous waste characteristic, criteria, or are listed as dangerous waste under WAC 173-303-070 are listed or identified as a dangerous waste (and thus are subject to regulation under this chapter), unless all the following conditions are met:

(A) The waste military munitions are not chemical agents or chemical munitions.

(B) The waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB).

(C) The waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions.

(D) Within ninety days of August 12, 1997, or within ninety days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the department of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in (a)(i) of this subsection is claimed.

(E) The owner or operator must provide oral notice to the department within twenty-four hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of (a)(i) of this subsection that may endanger health or the environment. In addition, a written submission describing the circumstances must be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of (a)(i) of this subsection.

(F) The owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of (a)(i) of this subsection, and must maintain records of the findings of these inventories and inspections for at least three years.

(G) Access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.

(ii) The conditional exemption in (a)(i) of this subsection from regulation as dangerous waste applies only to the storage of nonchemical waste military munitions. It does not affect the regulatory status of waste military munitions as dangerous wastes with regard to transportation, treatment or disposal.

(iii) The conditional exemption in (a)(i) of this subsection applies only so long as all of the conditions in (a)(i) of this subsection are met.

(b) Notice of termination of waste storage. The owner or operator must notify the department when a storage unit identified in (a)(i)(D) of this subsection will no longer be used to store waste military munitions.

(c) Reinstatement of conditional exemption. If any waste military munition loses its conditional exemption under (a)(i) of this subsection, an application may be filed with the

department for reinstatement of the conditional exemption from dangerous waste storage regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of (a)(i) of this subsection. If the department finds that reinstatement of the conditional exemption is appropriate based on factors such as the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation, or a demonstration that the violations are not likely to recur, the department may reinstate the conditional exemption under (a)(i) of this subsection. If the director does not take action on the reinstatement application within sixty days after receipt of the application, then reinstatement will be deemed granted, retroactive to the date of the application. However, the department may terminate a conditional exemption reinstated by default in the preceding sentence if it finds that reinstatement is inappropriate based on factors such as the owner's or operator's failure to provide a satisfactory explanation of the circumstances of the violation, or failure to demonstrate that the violations are not likely to recur. In reinstating the conditional exemption under (a)(i) of this subsection, the department may specify additional conditions as are necessary to ensure and document proper storage to protect human health and the environment.

(d) Waste chemical munitions.

(i) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under WAC 173-303-070, are listed or identified as a hazardous waste and are subject to the applicable regulatory requirements of RCRA subtitle C and the Hazardous Waste Management Act.

(ii) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under WAC 173-303-070, are not subject to the storage prohibition in RCRA section 3004(j), codified at 40 CFR 268.50 (which is incorporated by reference at WAC 173-303-140 (2)(a)).

(e) Amendments to DDESB storage standards. The DDESB storage standards applicable to waste military munitions, referenced in subsection (4)(a)(i) of this section, are DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the DDESB storage standards will become effective for purposes of subsection (4)(a)(i) of this section on the date the Department of Defense publishes notice in the Federal Register that the DDESB standards referenced in subsection (4)(a)(i) of this section have been amended.

(5) **Standards applicable to the treatment and disposal of waste military munitions.**

The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards of this chapter.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-578, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-578, filed 5/10/00, effective 6/10/00.]

WAC 173-303-620 Financial requirements. (1) Applicability.

(a) The requirements of subsections (3), (4), (7), (8), (9), and (10) of this section, apply to owners and operators of all dangerous waste facilities, except as provided otherwise in this section.

(b) The requirements of subsections (5) and (6) of this section apply to owners and operators of:

(i) Dangerous waste disposal facilities;

(ii) Tank systems that are required under WAC 173-303-640(8) to meet the requirements of landfills;

(iii) Miscellaneous units as specified in WAC 173-303-680(4);

(iv) Waste piles and surface impoundments to the extent that WAC 173-303-650 and 173-303-660, respectively, require that such facilities comply with this section; and

(v) Containment buildings that are required under WAC 173-303-695 to meet the requirements for landfills.

(c) States and the federal government are exempt from the requirements of this section. Operators of state or federally owned facilities are exempt from the requirements of this section, except subsections (3) and (5) of this section. Operators of facilities who are under contract with (but not owned by) the state or federal government must meet all of the requirements of this section.

(d) The director may, in an enforceable document, replace all or part of the requirements of this section with alternative requirements for financial assurance when he or she:

(i) Applies alternative requirements for ground water monitoring, closure or post-closure under WAC 173-303-610 (1)(d) or 173-303-645 (1)(e); and

(ii) Determines that it is not necessary to apply the requirements of this section because the alternative requirements will protect human health and the environment.

(2) Definitions. As used in this section, the following listed or referenced terms have the meanings given below:

(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of WAC 173-303-610(3);

(b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (3) of this section;

(c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (5) of this section;

(d) "Parent corporation" means a corporation which directly owns at least fifty percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation;

(e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of WAC 173-303-610 (7), (8), (9), and (10);

(f) "Regional administrator" means the department;

(g) "Hazardous waste" means dangerous waste; and

(h) The additional terms listed and defined in 40 CFR 264.141 (f), (g), and (h) are incorporated by reference.

(3) Cost estimate for facility closure.

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in WAC 173-303-610 (2) through (6), and applicable closure requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-

670(8), 173-303-680 (2) through (4) and 173-303-695. The closure cost estimate:

(i) Must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see WAC 173-303-610 (3)(a));

(ii) Must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility;

(iii) May not incorporate any salvage value that may be realized with the sale of dangerous wastes, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure; and

(iv) May not incorporate a zero cost for dangerous wastes, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), that might have economic value.

(b) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than thirty days after the department has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.

(c) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with this section. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before submission of updated information to the department as specified in subsection (4) of this section. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent *Implicit Price Deflator for Gross National Product or Gross Domestic Product* as published by the United States Department of Commerce in its survey of current business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest closure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted closure cost estimate.

(4) Financial assurance for facility closure.

(a) An owner or operator of a TSD facility must establish financial assurance for closure of the facility. The owner or operator must choose from the following options or combination of options:

(i) Closure trust fund;

(ii) Surety bond guaranteeing payment into a closure trust fund;

(iii) Surety bond guaranteeing performance of closure;

(iv) Closure letter of credit;

(v) Closure insurance; or

(vi) Financial test and corporate guarantee for closure.

(b) In satisfying the requirements of financial assurance for facility closure in this subsection, the owner or operator must meet all the requirements set forth in 40 CFR 264.143 which are incorporated by reference. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state.

(5) Cost estimate for post-closure monitoring and maintenance.

(a) The owner or operator of a facility subject to post-closure monitoring or maintenance requirements must have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in WAC 173-303-610 (7) through (10), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-680(4). The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required by WAC 173-303-610.

(b) During the active life of the facility, the owner or operator must revise the post-closure cost estimate within thirty days after the department has approved the request to modify the post-closure plan, if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.

(c) During the active life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with subsection (6) of this section. For owners or operators using the financial test or corporate guarantee, the post-closure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before the submission of updated information to the department as specified in subsection (6) of this section. The adjustment may be made by recalculating the post-closure cost estimate in current dollars or by using an inflation factor derived from the most recent *Implicit Price Deflator for Gross National Product* or *Gross Domestic Product* as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest postclosure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted post-closure cost estimate.

(6) Financial assurance for post-closure monitoring and maintenance.

(a) An owner or operator of a facility subject to post-closure monitoring or maintenance requirements must establish financial assurance for post-closure care in accordance with the approved post-closure care plan. He must choose from the following options or combination of options:

(i) Post-closure trust fund;

(ii) Surety bond guaranteeing payment into a post-closure trust fund;

(iii) Surety bond guaranteeing performance of post-closure care;

(iv) Post-closure letter of credit;

(v) Post-closure insurance; or

(vi) Financial test and corporate guarantee for post-closure care.

(b) In satisfying the requirements of financial assurance for facility post-closure care in this subsection, the owner or operator must meet all the requirements set forth in 40 CFR 264.145 which are incorporated by reference. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state.

(7) Use of a mechanism for financial assurance of both closure and post-closure care. An owner or operator may satisfy the requirements for financial assurance for both closure and post-closure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both 40 CFR 264.143 and 264.145 which are incorporated by reference. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of postclosure care.

(8) Liability requirements.

(a) An owner or operator of a TSD facility or a group of such facilities must demonstrate financial responsibility for bodily injury and property damages to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(a) which is incorporated by reference.

(b) An owner or operator of a facility with a regulated unit or units (as defined in WAC 173-303-040) or a disposal miscellaneous unit or units used to manage dangerous waste or a group of such facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(b), 264.147 (f), (g), (h), (i), and (j) which are incorporated by reference.

(c) Request for variance. If an owner or operator can demonstrate to the satisfaction of the department that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain a variance from the department. The request for a variance must be submitted to the department as part of the application under WAC 173-303-806(4) for a facility that does not have a permit, or pursuant to the procedures for permit modification under WAC 173-303-830 for a facility that has a permit. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The department may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the department to determine a level of financial responsibility other than that required by (a) or (b) of this subsection. Any request for a variance for a permitted facility will be treated as a request for a permit modification under WAC 173-303-830.

(d) Adjustments by the department. If the department determines that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the department may adjust the level of financial responsibility required under (a) or (b) of this subsection as may be necessary to protect human health and the environment. This adjusted level will be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the department determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that has no regulated units (as defined in WAC 173-303-040), it may require that the owner or operator of the facility comply with (b) of this subsection. An owner or operator must furnish to the department within a reasonable time, any information which the department requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustments of level or type of coverage for a facility that has a permit will be treated as a permit modification under WAC 173-303-830.

(e) Period of coverage. An owner or operator must continuously provide liability coverage for a facility as required by this subsection until certifications of closure of the facility, as specified in WAC 173-303-610(6), are received by the department.

(f) The following subsections are incorporated by reference: 40 CFR section 264.147(f), Financial test for liability coverage, (g) Guarantee for liability coverage, (h) Letter of

credit for liability coverage, (i) Surety bond for liability coverage, and (j) Trust fund for liability coverage.

(9) Incapacity of owners or operators, guarantor or financial institutions.

(a) An owner or operator must notify the department by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code, naming the owner or operator as debtor, within ten days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 40 CFR 264.143(f) and 264.145(f) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (40 CFR 264.151(h)).

(b) An owner or operator who fulfills the requirements of 40 CFR 264.143, 264.145, or 264.147 (a) or (b) by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within sixty days after such an event.

(10) Wording of the instruments. The financial instruments required by this section must contain the wording specified by 40 CFR 264.151 which is incorporated by reference, except that:

(a) The words "regional administrator" and "environmental protection agency" must be replaced with the words Washington state department of ecology;

(b) The words "hazardous waste" must be replaced with the words "dangerous waste";

(c) Any other words specified by the department must be changed as necessary to assure financial responsibility of the facility in accordance with the requirements of this section; and

(d) Whenever 40 CFR 264.151 requires that owners and operators notify several regional administrators of their financial obligations, the owner or operator must notify both the department and all regional administrators of regions that are affected by the owner or operator's financial assurance mechanisms.

Copies of the financial instruments with the appropriate word changes will be available from the department by June 30, 1984.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-620, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-620, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 98-03-018 (Order 97-03), § 173-303-620, filed 1/12/98, effective 2/12/98; 95-22-008 (Order 94-30), § 173-303-620, filed 10/19/95, effective 11/19/95. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-620, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-620, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-620, filed 6/26/87; 84-09-088 (Order DE 83-36), § 173-303-620, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-620, filed 2/10/82. Formerly WAC 173-302-340.]

WAC 173-303-645 Releases from regulated units. (1) Applicability.

(a)(i) Except as provided in (b) of this subsection, the regulations in this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste. The owner or operator must satisfy the requirements identified in (a)(ii) of this subsection for all wastes (or constituents thereof) contained in solid waste management units at the facility, regardless of the time at which waste was placed in such units.

(ii) All solid waste management units must comply with the requirements in WAC 173-303-646(2). Regulated units (as defined in WAC 173-303-040) must comply with the requirements of subsections (2) through (12) of this section, in lieu of WAC 173-303-646(2), for purposes of detecting, characterizing, and responding to releases to the uppermost aquifer. The corrective action financial responsibility requirements of WAC 173-303-646(2) apply to corrective action regulated units.

(b) The owner or operator's regulated unit or units are not subject to regulation for releases into the uppermost aquifer under this section if:

(i) The owner or operator is exempted under WAC 173-303-600; or

(ii) He operates a unit which the department finds:

(A) Is an engineered structure;

(B) Does not receive or contain liquid waste or waste containing free liquids;

(C) Is designed and operated to exclude liquid, precipitation, and other run-on and runoff;

(D) Has both inner and outer layers of containment enclosing the waste;

(E) Has a leak detection system built into each containment layer;

(F) The owner or operator will provide continuing operation and maintenance of these leak detection systems during the active life of the unit and the closure and post-closure care periods; and

(G) To a reasonable degree of certainty, will not allow dangerous constituents to migrate beyond the outer containment layer prior to the end of the post-closure care period.

(iii) The department finds, pursuant to WAC 173-303-655 (8)(d), that the treatment zone of a land treatment unit does not contain levels of dangerous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of WAC 173-303-655(6) has not shown a statistically significant increase in dangerous constituents below the treatment zone during the operating life of the unit. An exemption under this subsection can only relieve an owner or operator of responsibility to meet the requirements of this section during the post-closure care period; or

(iv) The department finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the post-closure care period. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made under

this subsection on assumptions that maximize the rate of liquid migration.

(c) The regulations under this section apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the regulations in this section:

(i) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure in accordance with the removal or decontamination limits specified in WAC 173-303-610 (2)(b);

(ii) Apply during the post-closure care period if the owner or operator is conducting a detection monitoring program under subsection (9) of this section; and

(iii) Apply during the compliance period under subsection (7) of this section, if the owner or operator is conducting a compliance monitoring program under subsection (10) of this section, or a corrective action program under subsection (11) of this section.

(d) Regulations in this section may apply to miscellaneous units when necessary to comply with WAC 173-303-680 (2) through (4).

(e) The director may, in an enforceable document, replace all or part of the requirements of this section with alternative requirements for ground water monitoring and corrective action when he or she determines:

(i) A dangerous waste unit is situated among other solid waste management units or areas of concern, a release has occurred, and both the dangerous waste unit and one or more of the solid waste management units or areas of concern are likely to have contributed to the release; and

(ii) It is not necessary to apply the requirements of this section because the alternative requirements will protect human health and the environment.

(2) Required programs.

(a) Owners and operators subject to this section must conduct a monitoring and response program as follows:

(i) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit are detected at the compliance point under subsection (6) of this section, the owner or operator must institute a compliance monitoring program under subsection (10) of this section. Detected is defined as statistically significant evidence of contamination as described in subsection (9)(f) of this section;

(ii) Whenever the ground water protection standard under subsection (3) of this section, is exceeded, the owner or operator must institute a corrective action program under subsection (11) of this section. Exceeded is defined as statistically significant evidence of increased contamination as described in subsection (10)(h) of this section. Exceeded is defined as statistically significant evidence of contamination as described in WAC 173-303-645 (10)(d);

(iii) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section and the downgradient facility property boundary, the owner or operator must institute a corrective action program under subsection (11) of this section; and

(iv) In all other cases, the owner or operator must institute a detection monitoring program under subsection (9) of this section.

(b) The department will specify in the facility permit the specific elements of the monitoring and response program. The department may include one or more of the programs identified in (a) of this subsection, in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the department will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

(3) Ground water protection standard. The owner or operator must comply with conditions specified in the facility permit that are designed to ensure that dangerous constituents under subsection (4) of this section, detected in the ground water from a regulated unit do not exceed the concentration limits under subsection (5) of this section, in the uppermost aquifer underlying the waste management area beyond the point of compliance under subsection (6) of this section, during the compliance period under subsection (7) of this section. To the extent practical, the department will establish this ground water protection standard in the facility permit at the time the permit is issued. If the department determines that an established standard is not protective enough, or if the department decides that it is not practical to establish standards at the time of permit issuance, the department will establish the ground water protection standard in the facility permit when dangerous constituents have been detected in the ground water from a regulated unit.

(4) Dangerous constituents.

(a) The department will specify in the facility permit the dangerous constituents to which the ground water protection standard of subsection (3) of this section, applies. Dangerous constituents are constituents identified in 40 CFR Part 264 Appendix IX, which is adopted by reference (this list is available from the department), and any other constituents not listed there which have caused a waste to be regulated under this chapter, that may be or have been detected in ground water in the uppermost aquifer underlying a regulated unit and that are reasonably expected to be in or derived from waste contained in a regulated unit, unless the department has excluded them under (b) of this subsection.

The department may also specify in the permit indicator parameters (e.g., specific conductance, pH, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents or reaction products as identified in the detection monitoring program under subsection (9)(a) of this section, that provide a reliable indication of the presence of dangerous constituents in the ground water.

(b) The department will exclude a 40 CFR Part 264 Appendix IX, or other identified constituent from the list of dangerous constituents specified in the facility permit if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the department will consider the following:

(i) Potential adverse effects on ground water quality, considering:

(A) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of ground water and the direction of ground water flow;

(D) The proximity and withdrawal rates of ground water users;

(E) The current and future uses of ground water in the area;

(F) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(I) The persistence and permanence of the potential adverse effects;

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering:

(A) The volume and physical and chemical characteristics of the waste in the regulated unit;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of ground water, and the direction of ground water flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the regulated unit to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects; and

(iii) Any identification of underground sources of drinking water and exempted aquifers made pursuant to chapter 90.48 RCW, chapter 270, Laws of 1983, and other applicable state laws and regulations.

(5) Concentration limits.

(a) The department will specify in the facility permit concentration limits in the ground water for dangerous constituents established under subsection (4) of this section. The concentration of a dangerous constituent:

(i) Must not exceed the background level of that constituent in the ground water at the time that limit is specified in the permit; or

(ii) For any of the constituents listed in Table 1 of this subsection, must not exceed the respective value given in that table if the background level of the constituent is below the value given in Table 1; or

(iii) Must not exceed an alternate limit established by the department under (b) of this subsection.

Table 1.
Maximum Concentration of Constituents
for Ground Water Protection

Constituent	Maximum Concentration[1]
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin	0.0002
Lindane	0.004
Methoxychlor	0.1
Toxaphene	0.005
2,4-D	0.1m
2,4,5-TP Silvex	0.01

[1]Milligrams per liter.

(b) The department will establish an alternate concentration limit for a dangerous constituent if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will consider the same factors listed in subsection (4)(b)(i) through (iii) of this section.

(6) Point of compliance.

(a) The department will specify in the facility permit the point of compliance at which the ground water protection standard of subsection (3) of this section, applies and at which monitoring must be conducted. The point of compliance is a vertical surface located at the hydraulically downgradient limit of the waste management area that extends down into the uppermost aquifer underlying the regulated units. Alternatively, the point of compliance may be any closer points identified by the department at the time the permit is issued, considering the risks of the facility, the wastes and constituents managed there, the potential for waste constituents to have already migrated past the alternate compliance point, and the potential threats to ground and surface waters.

(b) The waste management area is the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner,

dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

(7) Compliance period.

(a) The department will specify in the facility permit the compliance period during which the ground water protection standard of subsection (3) of this section applies. The compliance period is the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period).

(b) The compliance period begins when the owner or operator initiates a compliance monitoring program meeting the requirements of subsection (10) of this section.

(c) If the owner or operator is engaged in a corrective action program at the end of the compliance period specified in (a) of this subsection, the compliance period is extended until the owner or operator can demonstrate that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(8) General ground water monitoring requirements.

The owner or operator must comply with the requirements of this subsection for any ground water monitoring program developed to satisfy subsections (9), (10), or (11) of this section.

(a) The ground water monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that:

(i) Represent the quality of background water that has not been affected by leakage from a regulated unit;

(A) A determination of background quality may include sampling of wells that are not hydraulically upgradient of the waste management area where:

(I) Hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient; and

(II) Sampling at other wells will provide an indication of background ground water quality that is representative or more representative than that provided by the upgradient wells; and

(ii) Represent the quality of ground water passing the point of compliance.

(iii) Allow for the detection of contamination when dangerous waste or dangerous constituents have migrated from the waste management area to the uppermost aquifer.

(b) If a facility contains more than one regulated unit, separate ground water monitoring systems are not required for each regulated unit, provided that provisions for sampling the ground water in the uppermost aquifer will enable detection and measurement at the compliance point of dangerous constituents from the regulated units that have entered the ground water in the uppermost aquifer.

(c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata. Wells must meet the requirements set forth in Parts 1 and 3 of chapter 173-160 WAC, "Minimum standards for construction and maintenance of wells."

(d) The ground water monitoring program must include at a minimum, procedures and techniques for:

(i) Decontamination of drilling and sampling equipment;

(ii) Sample collection;

(iii) Sample preservation and shipment;

(iv) Analytical procedures and quality assurance; and

(v) Chain of custody control.

(e) The ground water monitoring program must include consistent sampling and analytical methods that ensure reliable ground water sampling, accurately measure dangerous constituents and indicator parameters in ground water samples, and provide a reliable indication of ground water quality below the waste management area.

(f) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(g) In detection monitoring or where appropriate in compliance monitoring, data on each dangerous constituent specified in the permit will be collected from background wells and wells at the compliance point(s). The number and kinds of samples collected to establish background must be appropriate for the form of statistical test employed, following generally accepted statistical principles. The sample size must be as large as necessary to ensure with reasonable confidence that a contaminant release to ground water from a facility will be detected. The owner or operator will determine an appropriate sampling procedure and interval for each hazardous constituent listed in the facility permit which will be specified in the unit permit upon approval by the department. This sampling procedure will be:

(i) A sequence of at least four samples, taken at an interval that assures, to the greatest extent technically feasible, that an independent sample is obtained, by reference to the uppermost aquifer's effective porosity, hydraulic conductivity and hydraulic gradient, and the fate and transport characteristics of the potential contaminants; or

(ii) An alternate sampling procedure proposed by the owner or operator and approved by the department.

(h) The owner or operator will specify one of the following statistical methods to be used in evaluating ground water monitoring data for each hazardous constituent which, upon approval by the department, will be specified in the unit permit. The statistical test chosen must be conducted separately for each dangerous constituent in each well. Where practical quantification limits (pql's) are used in any of the following statistical procedures to comply with (i)(v) of this subsection, the pql must be proposed by the owner or operator and approved by the department. Use of any of the following statistical methods must be protective of human health and the environment and must comply with the performance standards outlined in (i) of this subsection.

(i) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

(ii) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify sta-

tistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

(iii) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

(iv) A control chart approach that gives control limits for each constituent.

(v) Another statistical test method submitted by the owner or operator and approved by the department.

(i) Any statistical method chosen under (h) of this subsection for specification in the unit permit must comply with the following performance standards, as appropriate:

(i) The statistical method used to evaluate ground water monitoring data must be appropriate for the distribution of chemical parameters or dangerous constituents. If the distribution of the chemical parameters or dangerous constituents is shown by the owner or operator to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.

(ii) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a ground water protection standard, the test must be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment wise error rate for each testing period must be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

(iii) If a control chart approach is used to evaluate ground water monitoring data, the specific type of control chart and its associated parameter values must be proposed by the owner or operator and approved by the department if it finds it to be protective of human health and the environment.

(iv) If a tolerance interval or a prediction interval is used to evaluate ground water monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, must be proposed by the owner or operator and approved by the department if it finds these parameters to be protective of human health and the environment. These parameters will be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

(v) The statistical method must account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantification limit (pql) approved by the department under (h) of this subsection that is used in the statistical method must be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

(vi) If necessary, the statistical method must include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

(j) Ground water monitoring data collected in accordance with (g) of this subsection including actual levels of constituents must be maintained in the facility operating record. The department will specify in the permit when the data must be submitted for review.

(9) Detection monitoring program. An owner or operator required to establish a detection monitoring program under this subsection must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor for indicator parameters (e.g., pH, specific conductance, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents, or reaction products that provide a reliable indication of the presence of dangerous constituents in ground water. The department will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:

(i) The types, quantities, and concentrations of constituents in wastes managed at the regulated unit;

(ii) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the waste management area;

(iii) The detectability of indicator parameters, waste constituents, and reaction products in ground water; and

(iv) The concentrations or values and coefficients of variation of proposed monitoring parameters or constituents in the ground water background.

(b) The owner or operator must install a ground water monitoring system at the compliance point, as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The owner or operator must conduct a ground water monitoring program for each chemical parameter and dangerous constituent specified in the permit pursuant to (a) of this subsection in accordance with subsection (8)(g) of this section. The owner or operator must maintain a record of ground water analytical data as measured and in a form necessary for the determination of statistical significance under subsection (8)(h) of this section.

(d) The department will specify the frequencies for collecting samples and conducting statistical tests to determine whether there is statistically significant evidence of contamination for any parameter or dangerous constituent specified in the permit under (a) of this subsection in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during detection monitoring.

(e) The owner or operator must determine the ground water flow rate and direction in the uppermost aquifer at least annually.

(f) The owner or operator must determine whether there is statistically significant evidence of contamination for any chemical parameter of dangerous constituent specified in the permit pursuant to (a) of this subsection at a frequency specified under (d) of this subsection.

(i) In determining whether statistically significant evidence of contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. These method(s) must compare data collected at the compliance point(s) to the background ground water quality data.

(ii) The owner or operator must determine whether there is statistically significant evidence of contamination at each monitoring well as the compliance point within a reasonable period of time after completion of sampling. The department will specify in the facility permit what period of time is reasonable after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(g) If the owner or operator determines pursuant to (f) of this subsection that there is statistically significant evidence of contamination for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what chemical parameters or dangerous constituents have shown statistically significant evidence of contamination:

(ii) Immediately sample the ground water in all monitoring wells and determine whether constituents in the list of Appendix IX of 40 CFR Part 264 (which is adopted by reference) are present, and if so, in what concentration.

(iii) For any Appendix IX compounds found in the analysis pursuant to (g)(ii) of this subsection, the owner or operator may resample within one month and repeat the analysis for those compounds detected. If the results of the second analysis confirm the initial results, then these constituents will form the basis for compliance monitoring. If the owner or operator does not resample for the compounds found pursuant to (g)(ii) of this subsection, the dangerous constituents found during this initial Appendix IX analysis will form the basis for compliance monitoring.

(iv) Within ninety days, submit to the department an application for a permit modification to establish a compliance monitoring program meeting the requirements of subsection (10) of this section. The application must include the following information:

(A) An identification of the concentration or any Appendix IX constituent detected in the ground water at each monitoring well at the compliance point;

(B) Any proposed changes to the ground water monitoring system at the facility necessary to meet the requirements of subsection (10) of this section;

(C) Any proposed additions or changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical methods used at the facility necessary to meet the requirements of subsection (10) of this section;

(D) For each dangerous constituent detected at the compliance point, a proposed concentration limit under subsection (5)(a)(i) or (ii) of this section, or a notice of intent to seek an alternate concentration limit under subsection (5)(b) of this section; and

(v) Within one hundred eighty days, submit to the department:

(A) All data necessary to justify an alternate concentration limit sought under subsection (5)(b) of this section; and

(B) An engineering feasibility plan for a corrective action program necessary to meet the requirement of subsection (11) of this section unless:

(I) All dangerous constituents identified under (g)(ii) of this subsection are listed in Table I of subsection (5) of this section and their concentrations do not exceed the respective values given in that Table; or

(II) The owner or operator has sought an alternate concentration limit under subsection (5)(b) of this section for every dangerous constituent identified under (g)(ii) of this subsection.

(vi) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant difference for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. The owner operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under (g)(iv) of this subsection; however, the owner or operator is not relieved of the requirement to submit a permit modification application within the time specified in (g)(iv) of this subsection unless the demonstration made under this subsection successfully shows that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(A) Notify the department in writing within seven days of determining statistically significant evidence of contamination at the compliance point that he intends to make a demonstration under this subsection;

(B) Within ninety days, submit a report to the department which demonstrates that a source other than a regulated unit caused the contamination or that the contamination resulted from error in sampling, analysis, or evaluation;

(C) Within ninety days, submit to the department an application for a permit modification to make any appropriate changes to the detection monitoring program facility; and

(D) Continue to monitor in accordance with the detection monitoring program established under this section.

(h) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of this section, he or she must, within ninety days, submit an application for a permit modification to make any appropriate changes to the program.

(10) Compliance monitoring program. An owner or operator required to establish a compliance monitoring program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the ground water to determine whether regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must install a ground water monitoring system at the compliance point as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The department will specify the sampling procedures and statistical methods appropriate for the constituents and the facility, consistent with subsection (8)(g) and (h) of this section.

(i) The owner or operator must conduct a sampling program for each chemical parameter or dangerous constituent in accordance with subsection (8)(g) of this section.

(ii) The owner or operator must record ground water analytical data as measured and in form necessary for the determination of statistical significance under subsection (8)(h) of this section for the compliance period of the facility.

(d) The owner or operator must determine whether there is statistically significant evidence of increased contamination for any chemical parameter or dangerous constituent specified in the permit, pursuant to (a) of this subsection, at a frequency specified under (f) of this subsection.

(i) In determining whether statistically significant evidence of increased contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. The method(s) must compare data collected at the compliance point(s) to a concentration limit developed in accordance with subsection (5) of this section.

(ii) The owner or operator must determine whether there is statistically significant evidence of increased contamination at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(e) The owner or operator must determine the rate and direction of ground water flow in the uppermost aquifer at least annually.

(f) The department will specify the frequencies for collecting samples and conducting statistical tests to determine statistically significant evidence of increased contamination in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during the compliance period of the facility.

(g) The owner or operator must analyze samples from all monitoring wells at the compliance point for all constituents contained in Appendix IX of Part 264 at least annually to determine whether additional dangerous constituents are present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in (f) of this subsection. If the owner or operator finds Appendix IX constituents in the ground water that are not already identified in the permit as monitoring constituents, the owner or operator may resample within one month and repeat the Appendix IX analysis. If the second analysis confirms the presence of new constituents, the owner or operator must report the concentration of these additional constituents to the department within seven days after the completion of the second analysis and add them to the monitoring list. If the owner or operator chooses not to resample, then he or she must report the concentrations of these additional constituents to the department within seven days after completion of the initial analysis and add them to the monitoring list. If the owner or operator determines, pursuant to (d) of this subsection, that any concentration limits under subsection (5) of this section are being exceeded at any monitoring well at the point of compliance, he must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded;

(ii) Submit to the department an application for a permit modification to establish a corrective action program meeting the requirements of subsection (11) of this section, within ninety days, or within sixty days if an engineering feasibility study has been previously submitted to the department under subsection (9)(h)(v) of this section. For regulated units managing EHW, time frames of sixty days and forty-five days, respectively will apply. However, if the department finds that the full extent of the ninety/sixty-day or the sixty/forty-five-day time periods will increase the likelihood to cause a threat to public health, or the environment, it can at its discretion reduce their duration. In specifying shorter limits, the department will consider the following factors:

(A) The physical and chemical characteristics of the dangerous constituents and parameters in the ground water;

(B) The hydrogeological characteristics of the facility and of the surrounding land;

(C) The rate of movement and direction of flow of the affected ground water;

(D) The proximity to and withdrawal rates of ground water users downgradient; and

(E) The current and future uses of ground water in the concerned area; and

(iii) The application must at a minimum include the following information:

(A) A detailed description of corrective actions that will achieve compliance with the ground water protection standard specified in the permit; and

(B) A plan for a ground water monitoring program that will demonstrate the effectiveness of the corrective action.

(h) Reserved.

(i) If the owner or operator determines, pursuant to (d) of this subsection, that the ground water concentration limits under this section are being exceeded at any monitoring well at the point of compliance, he may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent

noncompliance with the standards resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make appropriate changes to the compliance monitoring program at the facility; and

(iv) Continue to monitor in accord with the compliance monitoring program established under this section.

(j) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(11) Corrective action program. An owner or operator required to establish a corrective action program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section, for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must implement a corrective action program that prevents dangerous constituents and parameters from exceeding their respective concentration limits at the compliance point by removing the dangerous waste constituents and parameters or treating them in place. The permit will specify the specific measures that will be taken.

(c) The owner or operator must begin corrective action within a reasonable time period after the ground water protection standard is exceeded. The department will specify that time period in the facility permit. If a facility permit includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action will begin and such a requirement will operate in lieu of subsection (10)(i)(ii) of this section.

(d) In conjunction with a corrective action program, the owner or operator must establish and implement a ground water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under subsection (10) of this section, and must be as effective as that program in determining compliance with the ground water protection standard under subsection (3) of this section, and in determining the success of a corrective action program under (e) of this subsection, where appropriate.

(e) In addition to the other requirements of this section, the owner or operator must conduct a corrective action program to remove or treat in place any dangerous constituents or parameters under subsection (4) of this section, that exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section, and the downgradient facility property boundary; and beyond the facility boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the department that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner/operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis. For a facility seeking or required to have a permit, the corrective action measures to be taken must be specified in the permit.

(i) Corrective action measures under this subsection must be initiated at the effective date of the modified permit and completed without time delays considering the extent of contamination.

(ii) Corrective action measures under this subsection may be terminated once the concentration of dangerous constituents and parameters under subsection (4) of this section, is reduced to levels below their respective concentration limits under subsection (5) of this section.

(f) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the ground water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, he must continue that corrective action for as long as necessary to achieve compliance with the ground water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground water monitoring program under (d) of this subsection, that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(g) The owner or operator must report in writing to the department on the effectiveness of the corrective action program. The owner or operator must submit these reports semiannually.

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(12) Use of the Model Toxics Control Act.

(a) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under WAC 173-303-645 using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.

(b) Corrective action requirements imposed by an action issued pursuant to the Model Toxics Control Act will be in compliance with the requirements of WAC 173-303-645 and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.

(c) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department

will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation will in no way affect the timing or scope of review of the Model Toxics Control Act action.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-645, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-645, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 95-22-008 (Order 94-30), § 173-303-645, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-645, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-645, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-645, filed 1/4/89; 84-09-088 (Order DE 83-36), § 173-303-645, filed 4/18/84.]

WAC 173-303-646 Corrective action. (1) Purpose and applicability.

(a) The provisions of this section establish requirements for corrective action for releases of dangerous wastes and dangerous constituents including releases from solid waste management units.

(b) The provisions of this section apply to facilities seeking or required to have a permit to treat, store, recycle or dispose of dangerous waste.

(c) The provisions of this section do not apply to cleanup-only facilities.

(d) For purposes of this section, dangerous constituent means any constituent identified in WAC 173-303-9905 or 40 CFR Part 264 Appendix IX, any constituent that caused a waste to be listed as a dangerous waste or to exhibit a dangerous characteristic under this chapter or to meet a dangerous waste criteria under this chapter, and any constituent that is within the meaning of "hazardous substance" under RCW 70.105D.020(7).

(2) Requirements.

(a) The owner or operator of a facility must institute corrective action as necessary to protect human health and the environment for all releases of dangerous wastes and dangerous constituents, including releases from all solid waste management units at the facility. Corrective action is required regardless of the time at which waste was managed at the facility or placed in such units and regardless of whether such facilities or units were intended for the management of solid or dangerous waste. Assurances of financial responsibility for such corrective action must be provided.

(b) The owner/operator must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment. Additionally, as necessary to protect human health and the environment, the department may require the owner/operator to implement on site measures to address releases which have migrated beyond the facility boundary. Assurances of financial responsibility for such corrective action must be provided.

(c) In the case of a facility seeking or required to have a permit under the provisions of chapter 173-303 WAC, corrective action must be specified in the permit. The permit will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completion of such corrective action.

(d) At a minimum, corrective actions must be consistent with the following requirements of chapter 173-340 WAC.

(i) As necessary to select a cleanup action consistent with WAC 173-340-360, 173-340-350, state remedial investigation and feasibility study. Information that is adequate to support selection of a cleanup action consistent with WAC 173-340-360 but was developed under a different authority (for example, as part of closure under WAC 173-303-610 or as part of a federally overseen cleanup) may be used.

(ii) WAC 173-340-360, selection of cleanup actions.

(iii) WAC 173-340-400, cleanup actions.

(iv) WAC 173-340-410, compliance monitoring requirements.

(v) WAC 173-340-420, periodic site reviews.

(vi) WAC 173-340-440, institutional controls.

(vii) WAC 173-340-700 through 173-340–760, cleanup standards.

(3) Use of the Model Toxics Control Act.

(a) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under subsection (2) of this section using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.

(b) Corrective action requirements imposed by the department in an action issued pursuant to the Model Toxics Control Act will be in compliance with the requirements of subsection (2) of this section and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.

(c) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation will in no way affect the timing or scope of review of the Model Toxics Control Act action.

(4) Corrective action management unit (CAMU).

(a) In accordance with the requirements of this subsection, the director may designate an area at a facility as a corrective action management unit for the purpose of treating, storing or disposing of remediation waste that originates at the same facility in order to implement remedies under this section or to implement other cleanup actions. Placement of dangerous remediation waste into or within a CAMU does not constitute land disposal of dangerous waste. Consolidation or placement of dangerous remediation waste into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.

(b) Designation of a CAMU will not in any way affect the department's existing authorities, including authority under chapter 70.105D RCW, to address clean-up levels, media-specific points of compliance, or other remedy selection decisions.

(c) Designation of a CAMU will not in any way affect the timing or scope of review of any actions taken under the Model Toxics Control Act pursuant to subsection (3) of this section to fulfill the corrective action requirements of subsec-

tion (2) of this section or the corrective action requirements of WAC 173-303-645.

(5) Designation of a corrective action management unit.

(a) When designating a CAMU, the director will do so in accordance with subsection (4) of this section, and the following:

(i) The CAMU will facilitate the implementation of reliable, effective, protective, and cost-effective remedies;

(ii) Waste management activities associated with the CAMU will not create unacceptable risks to humans or the environment resulting from exposure to dangerous wastes or dangerous constituents;

(iii) The CAMU will include uncontaminated areas of the facility only if including such areas for the purposes of managing remediation wastes is more protective than management of such wastes at contaminated areas of the facility;

(iv) Areas within the CAMU where wastes remain in place after closure of the CAMU, will be managed and contained so as to minimize future releases of dangerous wastes and dangerous constituents to the extent practicable;

(v) When appropriate and practicable, the CAMU will expedite the timing of remedial activity implementation;

(vi) The CAMU will enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and

(vii) The CAMU will, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.

(b) When designating a CAMU, the director will specify requirements for the CAMU including the following:

(i) The areal configuration of the CAMU;

(ii) Requirements for remediation waste management within the CAMU including specification of applicable design, operation, and closure requirements;

(iii) Requirements for ground water and/or vadose zone monitoring that are sufficient to:

(A) Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of dangerous waste and dangerous constituents in ground water from sources located within the CAMU; and

(B) Detect and subsequently characterize releases of dangerous waste and dangerous constituents to ground water that may occur from areas of the CAMU in which wastes will remain in place after CAMU closure.

(iv) Requirements for closure that will minimize the need for further maintenance of the CAMU and will include, as appropriate and deemed necessary by the director, the following:

(A) Requirements for excavation, removal, treatment, and/or containment of wastes;

(B) For areas in which wastes will remain after closure of the CAMU, requirements for capping of such areas; and

(C) Requirements for removal and decontamination of equipment, devices, and structures used in remediation waste management activities within the CAMU.

(c) In establishing closure requirements for CAMUs under (b)(iv) of this subsection the director will consider the following factors:

(i) CAMU characteristics;

(ii) Volume of wastes which will remain in place after CAMU closure;

(iii) Potential for releases from the CAMU;

(iv) Physical and chemical characteristics of the waste;

(v) Hydrological and other relevant environmental conditions at the facility which may influence the migration of any potential or actual releases in and/or from the CAMU; and

(vi) Potential for exposure of humans and environmental receptors if releases were to occur at or from the CAMU.

(d) The director will, for areas of the CAMU in which wastes will remain in place after CAMU closure, specify post-closure requirements to control, minimize, or eliminate, to the extent necessary to protect human health and the environment, post-closure escape of dangerous waste, dangerous constituents, leachate, contaminated runoff, and dangerous waste decomposition products to the ground, to ground waters, to surface waters, and to the atmosphere. Such post-closure requirements will include, as necessary to protect human health and the environment, monitoring and maintenance activities and the frequency with which such activities will be performed to ensure the integrity of any cap, final cover, or other containment system.

(e) The owner/operator of a facility must provide sufficient information to enable the director to designate a CAMU in accordance with the criteria in subsections (4), (5)(a) through (d), and (6) of this section.

(f) The director will document the rationale for designating CAMUs and will make such documentation available to the public.

(g) Incorporation of the designation of and requirements for a CAMU into a existing permit must be approved by the director according to the procedures for agency initiated permit modifications under WAC 173-303-830(3), or according to the permit modification procedures of WAC 173-303-830(4).

(6) Incorporation of a regulated unit within a CAMU.

(a) The director may designate a regulated unit (as defined in WAC 173-303-040) as a CAMU, or may incorporate a regulated unit into a CAMU, if:

(i) The regulated unit is closed or closing, meaning it has begun the closure process under WAC 173-303-610 or 173-303-400; and

(ii) Inclusion of the regulated unit will enhance implementation of effective, protective and reliable remedial actions at the facility.

(b) The requirements of WAC 173-303-610, 173-303-620, 173-303-645, and the unit specific requirements of WAC 173-303-650 through 173-303-680 that applied to the regulated unit will continue to apply to the portion of the CAMU into which the regulated unit was incorporated.

(7) Temporary units (TUs).

(a) In accordance with the requirements of this subsection, the director may designate a tank or container storage area at a facility as a temporary unit for the purpose of treating or storing remediation waste that originates at the same facility in order to implement remedies under this section or to implement other cleanup actions. The director may replace the design, operating and closure standards applicable to dangerous waste tank and container treatment and storage units

under this chapter with alternative requirements that protect human health and the environment.

(b) Any temporary unit to which alternative requirements are applied in accordance with (a) of this subsection will be:

(i) Located within the facility boundary; and

(ii) Used only for treatment or storage of remediation wastes managed pursuant to implementation of the corrective action requirements of subsection (2) of this section at the facility.

(c) In establishing standards to be applied to a temporary unit, the director will consider the following factors:

(i) Length of time unit will be in operation;

(ii) Type of unit;

(iii) Volumes of wastes to be managed;

(iv) Physical and chemical characteristics of the wastes to be managed in the unit;

(v) Potential for releases from the unit;

(vi) Hydrogeological and other relevant environmental conditions at the facility which may influence the migration of any potential releases; and

(vii) Potential for exposure of humans and environmental receptors if releases were to occur from the unit.

(d) The director will specify the length of time, not to exceed one year, a temporary unit will be allowed to operate. The director will also specify design, operating, and closure requirements for the temporary unit.

(e) The director may extend the operating period of a temporary unit for up to one additional year, provided the director determines that:

(i) Continued operation of the unit will not pose a threat to human health and the environment; and

(ii) Continued operation of the unit is necessary to ensure timely and efficient implementation of remedial actions at the facility.

(f) Incorporation of the designation of and requirements for a temporary unit or a time extension for a temporary unit into an existing permit will be:

(i) Approved in accordance with the procedures for agency-initiated permit modifications under WAC 173-303-830(3); or

(ii) Requested by the owner or operator as a Class II modification according to the procedures under WAC 173-303-830(4).

(g) The director will document the rationale for designating a temporary unit and for granting time extensions for temporary units and will make such documentation available to the public.

(8) Staging piles. The requirements for staging piles in 40 CFR Part 264.554 are incorporated by reference. The word "director" in 40 CFR means "department."

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-646, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-646, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 95-22-008 (Order 94-30), § 173-303-646, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-646, filed 12/8/93, effective 1/8/94.]

WAC 173-303-690 Air emission standards for process vents. (1) Applicability.

(a) The regulations in this section apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes.

(b) Except for 40 CFR 264.1034(d) and (e), this section applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 ppmw, if these operations are conducted in one of the following:

(i) A unit that is subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a hazardous waste recycling unit that is not a ninety-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(iii) A unit that is exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a "ninety-day" tank or container) and is not a recycling unit under the provisions of WAC 173-303-120.

(c) For the owner and operator of a facility subject to this section and who received a final hazardous waste permit prior to December 6, 1996, the requirements of this section must be incorporated into the permit when the permit is reissued in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-806(11). Until such date when the owner and operator receives a final permit incorporating the requirements of this section, the owner and operator is subject to the requirements of 40 CFR 265 Subpart AA.

Note: The requirements of 40 CFR Parts 264.1032 through 264.1036 apply to process vents on hazardous waste recycling units previously exempt under WAC 173-303-120 (4)(d). Other exemptions under WAC 173-303-071 and 173-303-600(2) are not affected by these requirements.

(d) The requirements of this section do not apply to the process vents at a facility where the facility owner or operator certifies that all of the process vents that would otherwise be subject to this section are equipped with and operating air emission controls in accordance with the process vent requirements of an applicable Clean Air Act regulation codified under 40 CFR Part 60, Part 61, or Part 63. The documentation of compliance under regulations at 40 CFR Part 60, Part 61, or Part 63 must be kept with, or made readily available with, the facility operating record.

(2) 40 CFR 264.1031 through 1036 (Subpart AA) is incorporated by reference.

Note: Where the incorporated language refers to 264.1030, refer to subsection (1) of this section. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-690, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-690, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 95-22-008 (Order 94-30), § 173-303-690, filed 10/19/95, effective 11/19/95.]

WAC 173-303-691 Air emission standards for equipment leaks. (1) Applicability.

(a) The regulations in this section apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes.

(b) Except as provided in 40 CFR 264.1064(k), this section applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:

(i) A unit that is subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a hazardous waste recycling unit that is not a "ninety-day" tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(iii) A unit that is exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a "ninety-day" tank or container) and is not a recycling unit under the provisions of WAC 173-303-120.

(c) For the owner or operator of a facility subject to the requirements of 40 CFR 264.1052 through 264.1065 and who received a final permit under section 3005 of RCRA prior to December 6, 1996, the requirements of 40 CFR 264.1052 through 264.1065 must be incorporated into the permit when the permit is reissued under WAC 173-303-840(8) or reviewed under WAC 173-303-806(11). Until such date when the owner or operator receives a final permit incorporating the requirements of 40 CFR 264.1052 through 264.1065, the owner or operator is subject to the requirements of 40 CFR 265, Subpart BB, which is incorporated by reference at WAC 173-303-400 (3)(a).

(d) Each piece of equipment to which this section applies must be marked in such a manner that it can be distinguished readily from other pieces of equipment.

(e) Equipment that is in vacuum service is excluded from the requirements of 40 CFR 264.1052 to 264.1060 if it is identified as required in 40 CFR 264.1064 (g)(5).

(f) Equipment that contains or contacts hazardous waste with an organic concentration of at least ten percent by weight for less than three hundred hours per calendar year is excluded from the requirements of 40 CFR Parts 264.1052 through 264.1060 if it is identified, as required in 40 CFR Part 264.1064 (g)(6).

Note: The requirements of 40 CFR Parts 264.1052 through 264.1065 apply to equipment associated with hazardous waste recycling units previously exempt under WAC 173-303-120 (4)(d). Other exemptions under WAC 173-303-071 and 173-303-600(2) are not affected by these requirements.

(2) 40 CFR 264.1051 through 1065 (Subpart BB) is incorporated by reference.

Note: Where the incorporated language refers to 264.1050, refer to WAC 173-303-691. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-691, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-691, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 95-22-008 (Order 94-30), § 173-303-691, filed 10/19/95, effective 11/19/95.]

WAC 173-303-692 Air emission standards for tanks, surface impoundments, and containers. (1) **Applicability.**

(a) The requirements of 40 CFR Part 264 Subpart CC apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either WAC 173-303-630, 173-303-640, or 173-303-650 except as WAC 173-303-600 and (b) of this subsection provide otherwise.

(b) The requirements of 40 CFR Part 264 Subpart CC do not apply to the following waste management units at the facility:

(i) A waste management unit that holds hazardous waste placed in the unit before December 6, 1996, and in which no hazardous waste is added to the unit on or after December 6, 1996.

(ii) A container that has a design capacity less than or equal to 0.1 m^3.

(iii) A tank in which an owner or operator has stopped adding hazardous waste and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan.

(iv) A surface impoundment in which an owner or operator has stopped adding hazardous waste (except to implement an approved closure plan) and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan.

(v) A waste management unit that is used solely for on-site treatment or storage of hazardous waste that is placed in the unit as a result of implementing remedial activities required under the corrective action authorities of WAC 173-303-646, or RCRA section 3008(h), or CERCLA authorities.

(vi) A waste management unit that is used solely for the management of radioactive mixed waste in accordance with all applicable regulations under the authority of the Atomic Energy Act and the Nuclear Waste Policy Act.

(vii) A hazardous waste management unit that the owner or operator certifies is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified under 40 CFR Parts 60, 61, or 63. For the purpose of complying with this paragraph, a tank for which the air emission control includes an enclosure, as opposed to a cover, must be in compliance with the enclosure and control device requirements of 40 CFR Part 264.1084(i), except as provided in 40 CFR Part 264.1082 (c)(5).

(viii) A tank that has a process vent as defined in 40 CFR Part 264.1031.

(c) For the owner and operator of a facility subject to this section who received a final permit under the Hazardous Waste Management Act prior to December 6, 1996, the requirements of 40 CFR Part 264 Subpart CC will be incorporated into the permit when the permit is reissued in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-806 (11)(d). Until such date when the permit is reissued in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-806 (11)(d), the owner and operator is subject to the requirements of 40 CFR Part 265 Subpart CC, which is incorporated by reference at WAC 173-303-400 (3)(a).

(d) The requirements of 40 CFR Part 264 Subpart CC, except for the recordkeeping requirements specified in 40 CFR Part 264.1089(i), are administratively stayed for a tank or a container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations when the owner or operator of the unit meets all of the following conditions:

(i) The owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purpose of meeting the conditions of this paragraph, "organic peroxide" means an organic compound that contains the bivalent —O—O— structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

(ii) The owner or operator prepares documentation, in accordance with the requirements of 40 CFR Part 264.1089(i) explaining why an undue safety hazard would be created if air emission controls specified in 40 CFR Parts 264.1084 through 264.1087 are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of (d)(i) of this subsection.

(iii) The owner or operator notifies the department in writing that hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of (d)(i) of this subsection are managed at the facility in tanks or containers meeting the conditions of (d)(ii) of this subsection. The notification must state the name and address of the facility, and must be signed and dated by an authorized representative of the facility owner or operator.

(2) **40 CFR Parts 264.1081 through 264.1091 (Subpart CC) is incorporated by reference.**

Note: Where the incorporated language refers to 264.1080, refer to WAC 173-303-692. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

(3) **References within 40 CFR Part 264 Subpart CC to the following parts are incorporated by reference:** 40 CFR Parts 60, 61, and 63. This includes Method 25E - Determination of Vapor Phase Organic Concentration in Waste Samples at 40 CFR Part 60 Appendix A.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-692, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-692, filed 5/10/00, effective 6/10/00.]

WAC 173-303-806 Final facility permits. (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

(a) Final status TSD facilities; and

(b) Certain recycling facilities that are not exempt from the permit requirements.

(2)(a) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must comply with WAC 173-303-281 and apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a final facility permit must complete, sign, and submit an application to the department. An application must consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section. The requirements for the contents of a part A permit application are at WAC 173-303-803(4).

(b) Persons covered by permits by rule (WAC 173-303-802) need not apply. Procedures for applications, issuance and administration of emergency permits are found exclusively in WAC 173-303-804. Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in WAC 173-303-809.

(3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the permit is issued by the department. WAC 173-303-840(7) provides a means for reopening permit proceedings at the discretion of the department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.

(4) Contents of Part B. Part B of a permit application must consist of the information required in (a) through (m) of this subsection.

(a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order for the department to determine compliance with WAC 173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B must be submitted to the department and signed in accordance with requirements in WAC 173-303-810(12). Certain technical data, such as design drawings and specifications, and engineering studies must be certified by a registered professional engineer. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.

(i) A general description of the facility.

(ii) Chemical, biological, and physical analyses of the dangerous waste and hazardous debris to be handled at the facility. At a minimum, these analyses must contain all the information which must be known to treat, store, or dispose

of the wastes properly in accordance with WAC 173-303-600.

(iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300 (5)(g).

(iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(v) A copy of the general inspection schedule required by WAC 173-303-320(2): Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395 (1)(d), 173-303-630(6), 173-303-640 (4)(a)(i) and (6), 173-303-650(4), 173-303-655(4), 173-303-660 (4) and (5), 173-303-665(4), 173-303-670(7), and 173-303-680(3), and 40 CFR 264.1033, 264.1035, 264.1052, 264.1053, 264.1058, 264.1064, 264.1067, 264.1084, 264.1085, 264.1086, and 264.1088.

(vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-340, or a description of the procedures used to comply with these requirements.

(vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-640(7), 173-303-650(5) and 173-303-660(6).

(viii) A description of procedures, structures, or equipment used at the facility to:

(A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);

(B) Prevent runoff from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(C) Prevent contamination of water supplies;

(D) Mitigate effects of equipment failure and power outages;

(E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing); and

(F) Prevent releases to the atmosphere.

(ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395 (1)(c).

(x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(xi) Seismic risk consideration. The owner/operator of a proposed facility or expansion of an existing facility must identify the seismic risk zone in which the facility is intended to be located. Where state or local maps are not available, United States Geological Survey Open File Report number 82-1033 may be used to identify seismic risk zones. The owner/operator must demonstrate that the facility can and will be designed to resist seismic ground motion and that the design is sufficient to withstand the maximum horizontal acceleration of a design earthquake specified in the demonstration.

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330 (1)(d).

(xiii) A copy of the closure plan and, where applicable, the post-closure plan required by WAC 173-303-610 (3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), and 173-303-680 (2) and (4).

(xiv) For dangerous waste disposal units that have been closed, documentation that notices required under WAC 173-303-610(10) have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) and a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(4). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvi) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(6). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility, documentation showing the amount of insurance meeting the specification of WAC 173-303-620 (8)(a) and, if applicable, WAC 173-303-620 (8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620 (8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map must clearly show the following:

(A) Map scale and date;

(B) One hundred-year floodplain area;

(C) Surface waters including intermittent streams;

(D) Surrounding land uses (residential, commercial, agricultural, recreational);

(E) A wind rose (i.e., prevailing windspeed and direction);

(F) Orientation of the map (north arrow);

(G) Legal boundaries of the TSD facility site;

(H) Access control (fences, gates);

(I) Injection and withdrawal wells both on-site and off-site;

(J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);

(K) Barriers for drainage or flood control; and

(L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas).

(Note - For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)

(xix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.

(xx) Additional information requirements. The following additional information regarding protection of ground water is required from owners or operators of dangerous waste facilities containing a regulated unit except as otherwise provided in WAC 173-303-645 (1)(b):

(A) A summary of the ground water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94, where applicable;

(B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

(C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of ground water monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;

(D) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;

(II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are those listed in Appendix IX of 40 CFR Part 264, and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);

(E) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);

(F) If the presence of dangerous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must address the following items specified under WAC 173-303-645(9):

(I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the ground water;

(II) A proposed ground water monitoring system;

(III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;

(G) If the presence of dangerous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645 (9)(h)(v). Alternatively, the owner or operator can obtain written authorization in advance from the department to submit a proposed permit schedule for development and submittal of such information. To demonstrate compliance with WAC 173-303-645(10), the owner or operator must address the following items:

(I) A description of the wastes previously handled at the facility;

(II) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645 (8) and (10);

(IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645 (5)(a), including a justification for establishing any alternate concentration limits;

(V) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of WAC 173-303-645(8); and

(VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data; and

(H) If dangerous constituents or parameters have been measured in the ground water which exceed the concentration limits established under WAC 173-303-645(5), Table 1, or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead sub-

mit sufficient information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645 (10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the owner or operator must address, at a minimum, the following items:

(I) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(II) The concentration limit for each dangerous constituent and parameter found in the ground water as set forth in WAC 173-303-645(5);

(III) Detailed plans and an engineering report describing the corrective action to be taken;

(IV) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action; and

(V) The permit may contain a schedule for submittal of the information required in (a)(xx)(H)(III) and (IV) of this subsection, provided the owner or operator obtains written authorization from the department prior to submittal of the complete permit application.

(xxi) Contingent ground water protection program. The following actions are required for owners or operators of proposed land-based facilities and may be required for owners/operators of existing land-based facilities, except as provided in WAC 173-303-645 (1)(b).

(A) Contingent ground water protection program. The owner or operator must develop a contingent ground water protection program. The purpose of this program will be to prevent the migration of dangerous waste or dangerous waste constituents from waste management units to the nearest hydraulically downgradient receptor at any time during the life of the facility. For the purposes of this subsection, the downgradient receptor will be the facility property line, perennial surface water or domestic well, whichever is nearest to the dangerous waste management unit. The contingent ground water protection program must at a minimum:

(I) Define the local and regional hydrogeologic characteristics. The contingent ground water protection program must be based on a sufficient understanding of site geology, hydrology, and other factors to allow evaluation of its adequacy by the department. Site characterization must be performed in sufficient detail to provide, at a minimum, the following information: Site geostratigraphy; site hydrostratigraphy; identification of aquifers, aquitards, and aquicludes; flow models for each stratum (i.e., porus media or fracture flow); the distribution of vertical and horizontal hydraulic conductivity; effective porosity; horizontal and vertical hydraulic gradients; ground water travel time to receptors; and heterogeneity for each stratigraphic unit. Site interpretative models must include ranges of tested values: The provisions of WAC 173-303-806 (4)(a)(xx) and 173-303-645, must be used as guidance in the development of the contingent ground water protection program.

(II) Identify the range of potential release scenarios that could occur during facility operation and the post-closure care period. The scenarios must incorporate the intended design(s) of the dangerous waste management unit(s), wastes to be placed in the dangerous waste management unit(s), waste and leachate chemistry, waste, and soil and rock geochemical interactions, and the results of site characterization pursuant to WAC 173-303-806 (4)(a)(xx) and (xxi);

(III) Include specific physical action to be taken if dangerous waste or dangerous waste constituents are detected in one or more of the monitoring wells. The physical actions must be based upon engineering feasibility studies describing remedial actions established from site specific conditions and waste features. Such actions may include installation of a pump and treat system between the monitoring well and the receptor or installation of a section of slurry wall to decrease ground water travel times. The description of the systems must also provide how the remediation system will achieve cleanup, its efficiency, and the timeframes involved;

(IV) Incorporate the design, construction, and sampling methods outlined in WAC 173-303-645 (8)(c), (d), (e), (f), and (g);

(V) Demonstrate to the satisfaction of the department that the owner/operator of the dangerous waste management facility has the financial capability to implement the proposed ground water protection plan; and

(VI) Include reporting procedures to the department.

(B) The response actions identified in WAC 173-303-806 (4)(a)(xxi)(A)(III) must be activated if the presence of dangerous waste or dangerous waste constituents have been detected at the point of compliance in accordance with WAC 173-303-645 (9)(g), and must continue until the concentration of dangerous waste or dangerous waste constituents under WAC 173-303-645(4) are reduced to levels below their respective concentration limits specified in WAC 173-303-645(5).

(C) If the owner/operator does not demonstrate that the ground water protection program will prevent the migration of dangerous waste or its constituents to the nearest receptor, the department will require corrections to be made in the protection program, increase setbacks from the nearest receptor, or deny the permit.

(xxii) Additional requirements for incineration facilities. The following actions regarding the protection of human health and the environment must be taken by owners/operators of proposed hazardous waste incineration facilities and may be required for owners or operators of existing incineration facilities.

(A) Ambient monitoring program. The owner/operator will be required to develop an ambient monitoring program. The purpose of this ambient monitoring program will be to: Gather baseline environmental information characterizing on-site and off-site environmental conditions prior to facility operation; and, to identify and measure changes in the environment which may be linked to the construction and operation of the facility. The ambient monitoring program must, at a minimum:

(I) Include a characterization of facility emission sources and pathways of contaminant transport.

(II) Characterize local and regional ecosystems, including agricultural, and their sensitivity to the potential contaminants from the facility.

(III) Incorporate the findings of the environmental impact statement's health risk assessment and/or other assessments specific to the proposal or available to the scientific community regarding emissions from dangerous waste

management facilities and their potential human health and environmental effects.

(IV) Identify sensitive indicator plants and animals for biomonitoring, identify specific chemical constituents of concern, sampling locations, sampling frequency, sampling and analytical methods, chain of custody procedures, quality assurance/quality control procedures, reporting times, recordkeeping procedures, and data evaluation procedures.

(B) Environmental review procedures. The owner/operator must establish procedures to allow for public review of facility operation and all monitoring data required by the facility's permit. In developing this process, the owner/operator must, at a minimum:

(I) Coordinate this effort with the public and interested local organizations;

(II) Identify the informational needs of the community and develop a public information process which meets these needs; and

(III) Develop procedures allowing full access by the public to all monitoring data required by the permit.

(C) Impact mitigation plan. Prior to the department issuing a permit, the owner/operator must submit an impact mitigation plan which demonstrates to the satisfaction of the department that the owner/operator will mitigate all probable significant adverse impacts, including economic, due to facility location and operations. The owner/operator must use as a basis for identifying probable significant adverse economic impacts those probable economic impacts identified during a public review process, such as the environmental impact statement scoping process, if applicable.

The plan must include, but is not limited to, a description of what the owner/operator will do to reduce or prevent any probable significant impacts before they occur, to mitigate such impacts should they occur, and to ensure the owner/operator has and will have the financial capability to implement such preventative and mitigative measures. Mitigation measures may include, as an element, financial compensation to adversely affected parties.

This plan may be submitted with environmental reports the department requires for compliance with the State Environmental Policy Act, with the written citizen proponent negotiation report and agreements, or with the Part B permit application. If the plan does not demonstrate that the owner/operator is capable of adequately mitigating the identified probable significant adverse economic impacts, the department will require modification of the plan or of the proposed facility location, or will deny the permit application. The department must be satisfied with the plan prior to the issuance of the permit.

(xxiii) Information requirements for solid waste management units.

(A) The following information is required for each solid waste management unit:

(I) The location of the unit on the topographic map required under (a)(xviii) of this subsection.

(II) Designation of type of unit.

(III) General dimensions and structural description (supply any available drawings).

(IV) Time frame over which the unit was operated.

(V) Specification of all wastes that have been managed in the unit, to the extent available.

(B) The owner/operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of dangerous wastes or dangerous constituents from such unit or units.

(C) The owner/operator must conduct and provide the results of sampling and analysis of ground water, landsurface, and subsurface strata, surface water, or air, which may include the installation of wells, where the department determines it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

WAC 173-303-806 (4)(a)(xxiv):

(xxiv) Information requirements for known releases.

(A) In order to provide for corrective action necessary to protect human health and the environment, the following information is required for all known significant releases of dangerous waste and dangerous constituents (as defined by WAC 173-303-646 (2)(c)) at, and from, the facility. A significant release is a release which has affected or has the potential to affect human health or the environment at or beyond the facility.

(I) The location of the release on the topographic map required under (a)(xviii) of this subsection.

(II) General dimensions of the release and any relevant structural description. For example, if the release is from a storage tank, provide a structural description of the tank. Supply any available drawings.

(III) Time frame over which the release occurred.

(IV) Specification of all dangerous waste or dangerous constituents (as defined by WAC 173-303-646 (2)(c)) present in the release, to the extent available.

(xxv) A summary of the preapplication meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under WAC 173-303-281 (3)(c).

(xxvi) For land disposal facilities, if a case-by-case extension has been approved under 40 CFR 268.5 or a petition has been approved under 40 CFR 268.6, a copy of the notice of approval for the extension or petition is required.

(b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;

(B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;

(C) Capacity of the containment system relative to the volume of the largest container to be stored;

(D) Provisions for preventing or managing run-on;

(E) How accumulated liquids can be analyzed and removed to prevent overflow; and

(F) A description of the building or other protective covering for EHW containers;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with WAC 173-303-630 (7)(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) A description of the procedures for labeling containers;

(iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630 (9)(c) (location of incompatible wastes), where applicable;

(v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with WAC 173-303-630 (9)(a) and (b), and 173-303-395 (1)(b) and (c); and

(vi) Information on air emission control equipment as required in (m) of this subsection.

(c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:

(i) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling dangerous waste of each tank system, as required under WAC 173-303-640 (2) and (3);

(ii) Dimensions and capacity of each tank;

(iii) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(iv) A diagram of piping, instrumentation, and process flow for each tank system;

(v) A description of materials and equipment used to provide external corrosion protection, as required under WAC 173-303-640 (3)(a)(iii)(B);

(vi) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with WAC 173-303-640 (3)(b), (c), (d), and (e);

(vii) Detailed plans and a description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of WAC 173-303-640 (4)(a), (b), (c), (d), (e), and (f);

(viii) For tank systems for which a variance from the requirements of WAC 173-303-640(4) is sought (as provided by WAC 173-303-640 (4)(g)):

(A) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous waste or dangerous constituents into the ground water or surface water during the life of the facility; or

(B) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment.

(ix) Description of controls and practices to prevent spills and overflows, as required under WAC 173-303-640 (5)(b);

(x) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of WAC 173-303-640 (9) and (10);

(xi) A description of the marking and/or labeling of tanks;

(xii) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW; and

(xiii) Information on air emission control equipment as required in (m) of this subsection.

(d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in surface impoundments must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is designed, and is or will be constructed, operated and maintained to meet the requirements of WAC 173-303-650 (2)(j), (10), (11), and 173-303-335, addressing the following items:

(A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650 (2)(a)(i)(D) for EHW management. If an exemption from the requirement for a liner is sought as provided by WAC 173-303-650 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(B) Prevention of overtopping;

(C) Structural integrity of dikes;

(D) The double liner and leak (leachate) detection, collection, and removal system, if the surface impoundment must meet the requirements of WAC 173-303-650 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-650 (2)(k), (l), or (m), submit appropriate information;

(E) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(F) The construction quality assurance (CQA) plan if required under WAC 173-303-335; and

(G) Proposed action leakage rate, with rationale, if required under WAC 173-303-650(10), and response action plan, if required under WAC 173-303-650(11).

(iii) Reserve.

(iv) A description of how each surface impoundment, including the double liner system, leak detection system, cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650 (4)(a), (b), and (d). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650 (4)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650 (5)(b) and (c). This information should be included in the contingency plan submitted under (a)(vii) of this subsection;

(vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at closure, as required under WAC 173-303-650 (6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650 (6)(a)(ii) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with;

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how WAC 173-303-650(8) will be complied with;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how the surface impoundment is or will be designed to meet the requirements of WAC 173-303-650(9); and

(xi) Information on air emission control equipment as required in (m) of this subsection.

(e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to WAC 173-303-660(2), and 173-303-645 as provided by WAC 173-303-660 (1)(c), an explanation of how the standards of WAC 173-303-660 (1)(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the waste pile is designed, and is or will be constructed, operated, and maintained to meet the requirements of WAC 173-303-335, 173-303-660 (2)(j), (11) and (12), addressing the following items:

(A)(I) The liner system (except for an existing portion of a pile) if the waste pile must meet the requirements of WAC 173-303-660(2), including the licensed engineer's certification when required by WAC 173-303-660 (2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660 (2)(d), submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of WAC 173-303-660 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-660 (2)(k), (l), or (m), submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;

(V) Proposed action leakage rate, with rationale, if required under WAC 173-303-660(3), and response action plan, if required under WAC 173-303-660(4);

(B) Control of run-on;

(C) Control of runoff;

(D) Management of collection and holding units associated with run-on and runoff control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) Reserve.

(v) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system and appurtenances for control of run-on and runoff, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660 (4)(a)(iii) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;

(ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660 (9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665 (6)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a waste pile that is not enclosed (as defined in WAC 173-303-660 (1)(c)) is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(10).

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) provides otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(i) When seeking an exemption under WAC 173-303-670 (1)(b) (ignitable or reactive wastes only):

(A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or

(B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090 (7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or

(C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability, as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or

(D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.

(iii) In lieu of a trial burn, the applicant may submit the following information;

(A) An analysis of each waste or mixture of wastes to be burned including:

(I) Heating value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110 (3)(a), or their equivalent;

(IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110 (3)(a); and

(V) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC's) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in WAC 173-303-670(4);

(B) A detailed engineering description of the incinerator, including:

(I) Manufacturer's name and model number of incinerator;

(II) Type of incinerator;

(III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(IV) Description of auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cutoff system(s);

(VII) Stack gas monitoring and pollution control monitoring system;

(VIII) Nozzle and burner design;

(IX) Construction materials; and

(X) Location and description of temperature, pressure, and flow indicating devices and control devices;

(C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the principal organic dangerous constituents (PODC's) which the applicant has identified in the waste for which a permit is sought, and any differences from the PODC's in the waste for which burn data are provided;

(D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

(E) A description of the results submitted from any previously conducted trial burn(s) including:

(I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and

(II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

(F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:

(I) Expected carbon monoxide (CO) level in the stack exhaust gas;

(II) Waste feed rate;

(III) Combustion zone temperature;

(IV) Indication of combustion gas velocity;

(V) Expected stack gas volume, flow rate, and temperature;

(VI) Computed residence time for waste in the combustion zone;

(VII) Expected hydrochloric acid removal efficiency;

(VIII) Expected fugitive emissions and their control procedures; and

(IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;

(G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;

(H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit principal organic dangerous constituents (permit PODC's) those constituents for which destruction and removal efficiencies will be required; and

(I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:

(I) Incinerator ash residues, if any; and

(II) Residues from the air pollution control devices.

(iv) The department will approve a permit application without a trial burn if the department finds that:

(A) The wastes are sufficiently similar; and

(B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure that the performance standards in WAC 173-303-670(4) will be met by the incinerator.

(g) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:

(A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;

(B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(C) Any specific laboratory or field test that will be conducted, including:

(I) The type of test (e.g., column leaching, degradation);

(II) Materials and methods, including analytical procedures;

(III) Expected time for completion; and

(IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

(A) The wastes to be land treated;

(B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655 (4)(a) including:

(I) Waste application method and rate;

(II) Measures to control soil pH;

(III) Enhancement of microbial or chemical reactions; and

(IV) Control of moisture content;

(C) Provisions for unsaturated zone monitoring, including:

(I) Sampling equipment, procedures, and frequency;

(II) Procedures for selecting sampling locations;

(III) Analytical procedures;

(IV) Chain of custody control;

(V) Procedures for establishing background values;

(VI) Statistical methods for interpreting results; and

(VII) The justification for any dangerous constituents recommended for selection as principal dangerous constituents, in accordance with the criteria for such selection in WAC 173-303-655 (6)(a);

(D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;

(E) The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:

(A) Control of run-on;

(B) Collection and control of runoff;

(C) Minimization of runoff of dangerous constituents from the treatment zone;

(D) Management of collection and holding facilities associated with run-on and runoff control systems;

(E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and

(F) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under WAC 173-303-655(5) will be conducted including:

(A) Characteristics of the food-chain crop for which the demonstration will be made;

(B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and

(E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655 (5)(b) will be complied with;

(v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under WAC 173-303-655 (8)(a)(viii) and (c)(ii). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and

(vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.

(viii) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-655(12).

(h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information;

(i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is designed, and is or will be constructed, operated and maintained to comply with the requirements of WAC 173-303-335, 173-303-665 (2), (8) and (9) addressing the following items:

(A)(I) The liner system (except for an existing portion of a landfill), if the landfill must meet the requirements of WAC 173-303-665 (2)(a), including the licensed engineer's certification required by WAC 173-303-665 (2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituent into the ground water or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of WAC 173-303-665 (2)(h). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-665 (2)(j), (k) or (l), submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;

(V) Proposed action leakage rate, with rationale, if required under WAC 173-303-665(8), and response action plan, if required under 173-303-665(9);

(B) Control of run-on;

(C) Control of runoff;

(D) Management of collection and holding facilities associated with run-on and runoff control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iii) Reserve.

(iv) A description of how each landfill, including the double liner system, leachate collection and removal system, cover systems, and appurtenances for control for run-on and runoff will be inspected in order to meet the requirements of WAC 173-303-665(4). This information must be included in the inspection plan submitted under (a)(v) of this subsection;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665 (6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665 (6)(b) and (c). This information should be included in the closure and post-closure plans submitted under (a)(xiii) of this subsection;

(vi) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(7) will be complied with;

(vii) A description of how each landfill will be designed and operated in order to comply with WAC 173-303-140.

(i) Specific Part B information requirements for miscellaneous units. Except as otherwise provided in WAC 173-303-680(1), owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units must provide the following additional information:

(i) A detailed description of the unit being used or proposed for use, including the following:

(A) Physical characteristics, materials of construction, and dimensions of the unit;

(B) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of WAC 173-303-680 (2) and (3); and

(C) For disposal units, a detailed description of the plans to comply with the post-closure requirements of WAC 173-303-680(4).

(ii) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of WAC 173-303-680(2). If the applicant can demonstrate that he does not violate the environmental performance standards of WAC 173-303-680(2) and the department agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(iii) Information on the potential pathways of exposure of humans or environmental receptors to dangerous waste or dangerous constituents and on the potential magnitude and nature of such exposures.

(iv) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

(v) Any additional information determined by the department to be necessary for evaluation of compliance of the unit with the environmental performance standards of WAC 173-303-680(2).

(j) Specific Part B information requirements for process vents. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that have process vents to which WAC 173-303-690 applies must provide the following additional information:

(i) For facilities that cannot install a closed-vent system and control device to comply with the provisions of WAC 173-303-690 on the effective date that the facility becomes subject to the provisions of WAC 173-303-690 or 40 CFR 265 Subpart AA incorporated by reference at WAC 173-303-400 (3)(a), an implementation schedule as specified in 40 CFR section 264.1033 (a)(2).

(ii) Documentation of compliance with the process vent standards in 40 CFR section 264.1032, including:

(A) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the dangerous waste management units on a facility plot plan).

(B) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(C) Information and data used to determine whether or not a process vent is subject to the requirements of 40 CFR section 264.1032.

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with the requirements of 40 CFR 264.1032, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 40 CFR 264.1035 (b)(3).

(iv) Documentation of compliance with 40 CFR 264.1033, including:

(A) A list of all information references and sources used in preparing the documentation.

(B) Records, including the dates, of each compliance test required by 40 CFR 264.1033(k).

(C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (WAC 173-303-110 (3)(g)(viii)) or other engineering texts acceptable to the department that present basic control device design information. The design analysis will address the vent stream characteristics and control device operation parameters as specified in 40 CFR 264.1035 (b)(4)(iii).

(D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the dangerous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.

(E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater unless the total organic emission limits of 40 CFR 264.1032(a) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

(k) Specific Part B information requirements for equipment leaks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that have equipment to which WAC 173-303-691 applies must provide the following additional information:

(i) For each piece of equipment to which WAC 173-303-691 applies:

(A) Equipment identification number and dangerous waste management unit identification.

(B) Approximate locations within the facility (e.g., identify the dangerous waste management unit on a facility plot plan).

(C) Type of equipment (e.g., a pump or pipeline valve).

(D) Percent by weight total organics in the hazardous waste stream at the equipment.

(E) Hazardous waste state at the equipment (e.g., gas/vapor or liquid).

(F) Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").

(ii) For facilities that cannot install a closed-vent system and control device to comply with the provisions of WAC 173-303-691 on the effective date that the facility becomes subject to the provisions of WAC 173-303-691 or 40 CFR Part 265 Subpart BB incorporated by reference at WAC 173-303-400 (3)(a), an implementation schedule as specified in 40 CFR 264.1033 (a)(2).

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 40 CFR section 264.1035 (b)(3).

(iv) Documentation that demonstrates compliance with the equipment standards in 40 CFR sections 264.1052 to 264.1059. This documentation will contain the records required under 40 CFR 264.1064. The department may request further documentation before deciding if compliance has been demonstrated.

(v) Documentation to demonstrate compliance with 40 CFR section 264.1060 will include the following information:

(A) A list of all information references and sources used in preparing the documentation.

(B) Records, including the dates, of each compliance test required by 40 CFR 264.1033(j).

(C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "ATPI Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in WAC 173-303-110 (3)(g)(viii)) or other engineering texts acceptable to the department that present basic control device design information. The design analysis will address the vent stream characteristics and control device operation parameters as specified in 40 CFR 264.1035(b)(4)(iii).

(D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the dangerous waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

(l) Special Part B information requirements for drip pads.

Except as otherwise provided by WAC 173-303-600(3), owners and operators of dangerous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads must provide the following additional information:

(i) A list of hazardous wastes placed or to be placed on each drip pad.

(ii) If an exemption is sought to WAC 173-303-645, as provided by WAC 173-303-645(1), detailed plans and an engineering report describing how the requirements of WAC 173-303-645 (1)(b) will be met.

(iii) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated

and maintained to meet the requirements of WAC 173-303-675(4), including the as-built drawings and specifications. This submission must address the following items as specified in WAC 173-303-675(2):

(A) The design characteristics of the drip pad;

(B) The liner system;

(C) The leakage detection system, including the leak detection system and how it is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time;

(D) Practices designed to maintain drip pads;

(E) The associated collection system;

(F) Control of run-on to the drip pad;

(G) Control of runoff from the drip pad;

(H) The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;

(I) Procedures for cleaning the drip pad at least once every seven days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing with detergents or other appropriate solvents, or steam cleaning and provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned.

(J) Operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;

(K) Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and nonpressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices;

(L) Provisions for ensuring that collection and holding units associated with the run-on and runoff control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;

(M) If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals.

(N) A description of how each drip pad, including appurtenances for control of run-on and runoff, will be inspected in order to meet the requirements of WAC 173-303-675(4). This information should be included in the inspection plan submitted under (a)(v) of this subsection.

(O) A certification signed by an independent qualified, registered professional engineer, stating that the drip pad design meets the requirements of WAC 173-303-675 (4)(a) through (f).

(P) A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under WAC 173-303-675 (6)(a). For any waste not to be removed from the drip pad upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665(6) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection.

(m) Specific Part B information requirements for air emission controls for tanks, surface impoundments, and containers (Subpart CC) at 40 CFR Part 270.27 are incorporated by reference.

(5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(7)), only after complying with WAC 173-303-281, submitting Part A and Part B of the permit application and receiving a final facility permit. All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(6) Reapplications. Any dangerous waste facility with an effective final facility permit must submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date provided that such date will never be later than the expiration date of the effective permit.

Note: See public notice requirements at WAC 173-303-281(5).

(7) Continuation of expiring permits.

(a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.

(b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(iii) Issue a new permit with appropriate conditions; and/or

(iv) Take other actions authorized by this chapter.

(8) Completeness. The department will not issue a final facility permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the application form and any supplemental information has been submitted to the department's satisfaction. The completeness of any application for a permit will be judged independently of the status of any other permit application or permit for the same facility or activity. The department may deny a permit for the active life of a dangerous waste management facility or unit before receiving a complete application for a permit.

(9) Recordkeeping. Applicants must keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(10) General permit conditions. All final facility permits will contain general permit conditions described in WAC 173-303-810.

(11) Permit duration.

(a) Final facility permits will be effective for a fixed term not to exceed ten years.

(b) The department may issue any final facility permit for a duration that is less than the full allowable term.

(c) The term of a final facility permit will not be extended beyond ten years, unless otherwise authorized under subsection (7) of this section.

(d) Each permit for a land disposal facility will be reviewed by the department five years after the date of permit issuance or reissuance and will be modified as necessary, as provided in WAC 173-303-830(3).

(12) Reserve.

(13) Grounds for denial. A permit application will be denied pursuant to the procedures in WAC 173-303-840 if it is determined that the proposed location and/or activity endangers public health and the environment as demonstrated by the permit applicant's failure to satisfy the performance standards of WAC 173-303-283.

(14) Permit changes. All final facility permits will be subject to the requirements of permit changes, WAC 173-303-830.

(15) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.

(16) Other requirements for final recycling facility permits. In lieu of issuing a final recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act, chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500 through 173-303-525 for recycling facilities.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-806, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-806, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 98-03-018 (Order 97-03), § 173-303-806, filed 1/12/98, effective 2/12/98; 95-22-008 (Order 94-30), § 173-303-806, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-806, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-806, filed 3/7/91, effective 4/7/91. Statutory Authority: RCW 43.21A.080 and 70.105.210 et seq. 90-20-016, § 173-303-806, filed 9/21/90, effective 10/22/90. Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-806, filed 1/4/89; 88-18-083 (Order 88-29), § 173-303-806, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-806, filed 3/11/88; 87-14-029 (Order DE-87-4), § 173-303-806, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-806, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-806, filed 4/18/84.]

WAC 173-303-830 Permit changes. (1) Purpose and applicability. This section describes the types of permit changes that may be made to all permits issued by the director. This section does not apply to permits by rule or interim status permits.

(2) Transfer of permits.

(a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under (b) of this subsection or subsection (3) of this section) to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate act.

(b) Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the director in accordance with subsection (4) of this section. The new owner or operator must submit a revised permit application no later than ninety days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the director. When a transfer of ownership or operational control occurs, the old owner or operator must comply with the requirements of WAC 173-303-620 (Financial requirements) until the new owner or operator has demonstrated that he or she is complying with the financial requirements. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the director by the new owner or operator of compliance with the financial requirements, the director will notify the old owner or operator that he or she no longer needs to comply with the financial requirements as of the date of demonstration.

(3) Modification or revocation and reissuance of permits. When the director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for revocation and reissuance, or conducts a review of the permit file), the director may determine whether or not one or more of the causes listed in (a) and (b) of this subsection for modification or revocation and reissuance or both exist. If cause exists, the director may modify or revoke and reissue the permit accordingly, subject to the limitations of (c) of this subsection, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. All other aspects of the existing permit remain in effect for the duration of the unmodified permit. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. During any revocation and reissuance proceeding, the permittee must comply with all conditions of the existing permit until a new final permit is reissued. If cause does not exist under this subsection, the director will not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the director will approve or deny the request according to the procedures of subsection (4) of this section. Otherwise, a draft permit must be prepared and public review provided in accordance with WAC 173-303-840.

(a) Causes for modification. The following are causes for modification, but not revocation and reissuance, of permits; the following may be causes for revocation and reissuance, as well as modification, when the permittee requests or agrees:

(i) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

(ii) Information. Permits may be modified during their terms if the director receives information that was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justi-

fied the application of different permit conditions at the time of issuance;

(iii) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through adoption of new or amended standards or regulations or by judicial decision after the permit was issued.

(iv) Compliance schedules. The director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy;

(v) Notwithstanding any other provision in this section, when a permit for a land disposal facility is reviewed by the director under 173-303-806 (11)(d), the director will modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in this chapter.

(b) Causes for modification or revocation and reissuance. The following are causes to modify, or alternatively, revoke and reissue a permit:

(i) Cause exists for termination under WAC 173-303-830(5) for final facility permits, and the director determines that modification or revocation and reissuance is appropriate; or

(ii) The director has received notification of a proposed transfer of the permit.

(c) Reserve.

(4) Permit modification at the request of the permittee.

(a) Class 1 modifications.

(i) Except as provided in (a)(ii) of this subsection, the permittee may put into effect Class 1 modifications listed in Appendix I of this section under the following conditions:

(A) The permittee must notify the director concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(B) The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the director in accordance with WAC 173-303-840 (3)(e)(i)(D), and the appropriate units of state and local government, as specified in WAC 173-303-840 (3)(e)(i)(E). This notification must be made within ninety calendar days after the change is put into effect. For the Class 1 modifications that require prior director approval, the notification must be made within ninety calendar days after the director approves the request.

(C) Any person may request the director to review, and the director may for cause reject, any Class 1 modification. The director must inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.

(ii) Class 1 permit modifications identified in Appendix I by an asterisk may be made only with the prior written approval of the director.

(iii) For a Class 1 permit modification, the permittee may elect to follow the procedures in (b) of this subsection for Class 2 modifications instead of the Class 1 procedures. The permittee must inform the director of this decision in the notice required in (b)(i) of this subsection.

(b) Class 2 modifications.

(i) For Class 2 modifications, listed in Appendix I of this section, the permittee must submit a modification request to the director that:

(A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(B) Identifies that the modification is a Class 2 modification;

(C) Explains why the modification is needed; and

(D) Provides the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the director and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(E) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the director evidence of the mailing and publication. The notice must include:

(A) Announcement of a sixty-day comment period, in accordance with (b)(v) of this subsection, and the name and address of a departmental contact to whom comments must be sent;

(B) Announcement of the date, time, and place for a public meeting held in accordance with (b)(iv) of this subsection;

(C) Name and telephone number of the permittee's contact person;

(D) Name and telephone number of a departmental contact person;

(E) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."

(iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (b)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(v) The public will be provided sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the public notice.

(vi)(A) No later than ninety days after receipt of the notification request, the director must:

(I) Approve the modification request, with or without changes, and modify the permit accordingly;

(II) Deny the request;

(III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:

(AA) There is significant public concern about the proposed modification; or

(BB) The complex nature of the change requires the more extensive procedures of Class 3;

(IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days; or

(V) Notify the permittee that he or she will decide on the request within the next thirty days.

(B) If the director notifies the permittee of a thirty-day extension for a decision, the director must, no later than one hundred twenty days after receipt of the modification request:

(I) Approve the modification request, with or without changes, and modify the permit accordingly;

(II) Deny the request; or

(III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:

(AA) There is significant public concern about the proposed modification; or

(BB) The complex nature of the change requires the more extensive procedures of Class 3.

(IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days.

(C) If the director fails to make one of the decisions specified in (b)(vi)(B) of this subsection by the one hundred twentieth day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to one hundred eighty days, without formal departmental action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400). If the director approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in (b)(vi)(A), (B), or (C) of this subsection, such action cancels the temporary or automatic authorization.

(D)(I) In the case of an automatic authorization under (b)(vi)(C) of this subsection, or a temporary authorization under (b)(vi)(A)(IV) or (B)(IV) of this subsection, if the director has not made a final approval or denial of the modification request by the date fifty days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:

(AA) The permittee has been authorized temporarily to conduct the activities described in the permit modification request; and

(BB) Unless the director acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.

(II) If the owner/operator fails to notify the public by the date specified in (b)(vi)(D)(I) of this subsection, the effective date of the permanent authorization will be deferred until fifty days after the owner/operator notifies the public.

(E) Except as provided in (b)(vi)(G) of this subsection, if the director does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under subsection (3) or (4) of this section. The activities authorized under this subsection (b)(vi)(E) must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400).

(F) In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the director must consider all written comments submitted during the public comment period and must respond in writing to all significant comments in his or her decision.

(G) With the written consent of the permittee, the director may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

(vii) The director may deny or change the terms of a Class 2 permit modification request under (b)(6)(i) through (iii) of this subsection for the following reasons:

(A) The modification request is incomplete;

(B) The requested modification does not comply with the appropriate requirements of WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680 or other applicable requirements; or

(C) The conditions of the modification fail to protect human health and the environment.

(viii) The permittee may perform any construction associated with a Class 2 permit modification request beginning sixty days after the submission of the request unless the director establishes a later date for commencing construction and informs the permittee in writing before day sixty.

(c) Class 3 modifications.

(i) For Class 3 modifications listed in Appendix I of this section, the permittee must submit a modification request to the director that:

(A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(B) Identifies that the modification is a Class 3 modification;

(C) Explains why the modification is needed; and

(D) Provides the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the director and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(D) and must publish this notice in a major local newspaper of

general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the director evidence of the mailing and publication. The notice must include:

(A) Announcement of a sixty-day comment period, and a name and address of an agency contact to whom comments must be sent;

(B) Announcement of the date, time, and place for a public meeting on the modification request, in accordance with (c)(4) of this subsection;

(C) Name and telephone number of the permittee's contact person;

(D) Name and telephone number of a departmental contact person;

(E) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."

(iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (c)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(v) The public will be provided at least sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the notice.

(vi) After the conclusion of the sixty-day comment period, the director must grant or deny the permit modification request according to the permit modification procedures of WAC 173-303-840. In addition, the director must consider and respond to all significant written comments received during the sixty-day comment period.

(d) Other modifications.

(i) In the case of modifications not explicitly listed in Appendix I of this section, the permittee may submit a Class 3 modification request to the department, or he or she may request a determination by the director that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, he or she must provide the department with the necessary information to support the requested classification.

(ii) The director will make the determination described in (d)(i) of this subsection as promptly as practicable. In determining the appropriate class for a specific modification, the director will consider the similarity of the modification to other modifications codified in Appendix I and the following criteria:

(A) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the director may require prior approval.

(B) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to:

(I) Common variations in the types and quantities of the wastes managed under the facility permit;

(II) Technological advancements; and

(III) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.

(C) Class 3 modifications substantially alter the facility or its operation.

(e) Temporary authorizations.

(i) Upon request of the permittee, the director may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection. Temporary authorizations must have a term of not more than one hundred eighty days.

(ii)(A) The permittee may request a temporary authorization for:

(I) Any Class 2 modification meeting the criteria in (e)(iii)(B) of this subsection; and

(II) Any Class 3 modification that meets the criteria in (e)(iii)(B)(I) or (II) of this subsection; or that meets the criteria in (e)(iii)(B)(III) through (V) of this subsection and provides improved management or treatment of a dangerous waste already listed in the facility permit.

(B) The temporary authorization request must include:

(I) A description of the activities to be conducted under the temporary authorization;

(II) An explanation of why the temporary authorization is necessary; and

(III) Sufficient information to ensure compliance with the standards in WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.

(C) The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the director and to appropriate units of state and local governments as specified in WAC 173-303-840 (3)(e)(i)(D). This notification must be made within seven days of submission of the authorization request.

(iii) The director will approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the director must find:

(A) The authorized activities are in compliance with the standards of WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.

(B) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:

(I) To facilitate timely implementation of closure or corrective action activities;

(II) To allow treatment or storage in tanks, containers, or in containment buildings in accordance with 40 CFR Part 268;

(III) To prevent disruption of ongoing waste management activities;

(IV) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

(V) To facilitate other changes to protect human health and the environment.

(iv) A temporary authorization may be reissued for one additional term of up to one hundred eighty days provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and:

(A) The reissued temporary authorization constitutes the director's decision on a Class 2 permit modification in accordance with (b)(vi)(A)(IV) or (B)(IV) of this subsection; or

(B) The director determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of (c) of this subsection are conducted.

(f) Public notice and appeals of permit modification decisions.

(i) The director will notify persons on the facility mailing list and appropriate units of state and local government within ten days of any decision under this section to grant or deny a Class 2 or 3 permit modification request. The director will also notify such persons within ten days after an automatic authorization for a Class 2 modification goes into effect under (b)(vi)(C) or (E) of this subsection.

(ii) The director's decision to grant or deny a Class 2 or 3 permit modification request under this section may be appealed under the permit appeal procedures of WAC 173-303-845.

(iii) An automatic authorization that goes into effect under (b)(vi)(C) or (E) of this subsection may be appealed under the permit appeal procedures of WAC 173-303-845; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the appeal has been granted pursuant to WAC 173-303-845, notwithstanding the provisions of WAC 173-303-840 (8)(b).

(g) Newly regulated wastes and units.

(i) The permittee is authorized to continue to manage wastes listed or identified as dangerous under WAC 173-303-070, or to continue to manage dangerous waste in units newly regulated as dangerous waste management units, if:

(A) The unit was in existence as a dangerous waste facility with respect to the newly listed or identified waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;

(B) The permittee submits a Class 1 modification request on or before the date on which the waste or unit becomes subject to the new requirements;

(C) The permittee is in compliance with the applicable standards of 40 CFR Part 265 (as referenced in WAC 173-303-400) and Part 266 (as referenced in WAC 173-303-510);

(D) The permittee also submits a complete Class 2 or 3 permit modification request within one hundred eighty days of the effective date of the rule listing or identifying the waste, or subjecting the unit to management standards under this chapter; and

(E) In the case of land disposal units, the permittee certifies that each such unit is in compliance with all applicable requirements of 40 CFR Part 265 for ground water monitoring and financial responsibility (as referenced in WAC 173-303-400) on the date twelve months after the effective date of the rule identifying or listing the waste as dangerous, or regulating the unit as a dangerous waste management unit. If the owner or operator fails to certify compliance with all these requirements, he or she will lose authority to operate under this section.

(ii) New wastes or units added to a facility's permit under this subsection do not constitute expansions for the purpose of the twenty-five percent capacity expansion limit for Class 2 modifications.

(h) Military dangerous waste munitions treatment and disposal. The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if:

(i) The facility was in existence as a dangerous waste facility, and the facility was already permitted to handle the waste military munitions, on the date when the waste military munitions became subject to dangerous waste regulatory requirements;

(ii) On or before the date when the waste military munitions become subject to dangerous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and

(iii) The permittee submits a complete Class 2 modification request within one hundred eighty days of the date when the waste military munitions became subject to dangerous waste regulatory requirements.

(i) Permit modification list. The director must maintain a list of all approved permit modifications and must publish a notice once a year in a statewide newspaper that an updated list is available for review.

APPENDIX I

Modifications	Class
A. General Permit Provisions	
1. Administrative and informational changes	1
2. Correction of typographical errors	1
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance	1
b. Other changes	2
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the director	[1]1
b. Extension of final compliance date	3
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the director	[1]1
7. Changes in ownership or operational control of a facility, provided the procedures of subsection (2)(b) of this section are followed	[1]1
B. General Facility Standards	

Modifications	Class
1. Changes to waste sampling or analysis methods:	
a. To conform with agency guidance or regulations	1
b. To incorporate changes associated with F039 (multisource leachate) sampling or analysis methods	[1]1
c. To incorporate changes associated with underlying dangerous constituents in ignitable or corrosive wastes	[1]1
d. Other changes	2
2. Changes to analytical quality assurance/control plan:	
a. To conform with agency guidance or regulations	1
b. Other changes	2
3. Changes in procedures for maintaining the operating record	1
4. Changes in frequency or content of inspection schedules	2
5. Changes in the training plan:	
a. That affect the type or decrease the amount of training given to employees	2
b. Other changes	1
6. Contingency plan:	
a. Changes in emergency procedures (i.e., spill or release response procedures)	2
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed	1
c. Removal of equipment from emergency equipment list	2
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan	1
7. Construction quality assurance plan:	
a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specification	1
b. Other changes	2
Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change will be reviewed under the same procedures as the permit modification.	
C. Ground Water Protection	
1. Changes to wells:	
a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground water monitoring system	2
b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well	1
2. Changes in ground water sampling or analysis procedures or monitoring schedule, with prior approval of the director	[1]1
3. Changes in statistical procedure for determining whether a statistically significant change in ground water quality between upgradient and downgradient wells has occurred, with prior approval of the director	[1]1
4. Changes in point of compliance	[1]2
5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):	
a. As specified in the ground water protection standard	3
b. As specified in the detection monitoring program	2
6. Changes to a detection monitoring program as required by WAC 173-303-645(9), unless otherwise specified in this appendix	2
7. Compliance monitoring program:	
a. Addition of compliance monitoring program as required by WAC 173-303-645 (9) and (10)	3
b. Changes to a compliance monitoring program as required by WAC 173-303-645(10), unless otherwise specified in this appendix	2
8. Corrective action program:	
a. Addition of a corrective action program as required by WAC 173-303-645 (10)(i)(ii) and (11)	3
b. Changes to a corrective action program as required by WAC 173-303-645 (11)(h), unless otherwise specified in this appendix	2
D. Closure	
1. Changes to the closure plan:	
a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the director	[1]1
b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the director	[1]1
c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the director	[1]1
d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the director	[1]1
e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix	2
f. Extension of the closure period to allow a landfill, surface impoundment, or land treatment unit to receive nondangerous wastes after final receipt of dangerous wastes under WAC 173-303-610 (4)(d) and (e)	2
2. Creation of a new landfill unit as part of closure	3
3. Addition of the following new units to be used temporarily for closure activities:	
a. Surface impoundments	3
b. Incinerators	3
c. Waste piles that do not comply with WAC 173-303-660 (1)(c)	3

d. Waste piles that comply with WAC 173-303-660 (1)(c) 2

e. Tanks or containers (other than specified below) 2

f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the director . . . . . [1]1

g. Staging piles 2

E. Post-Closure

1. Changes in name, address, or phone number of contact in post-closure plan 1

2. Extension of post-closure care period 2

3. Reduction in the post-closure care period 3

4. Changes to the expected year of final closure, where other permit conditions are not changed 1

5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure 2

F. Containers

1. Modification or addition of container units:

a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F (1)(c) and F (4)(a) below 3

b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F (1)(c) and F (4)(a) below 2

c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), with prior approval of the director. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) . . . . . [1]1

2:

a. Modification of a container unit without increasing the capacity of the unit 2

b. Addition of a roof to a container unit without alteration of the containment system 1

3. Storage of different wastes in containers:

a. That require additional or different management practices from those authorized in the permit, except as provided in F(4) below 3

b. That do not require additional or different management practices from those authorized in the permit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

4. Storage or treatment of different wastes in containers:

a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) . . . . . [1]1

b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

G. Tanks

1:

a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G (1)(c), G (1)(d), and G (1)(e) below 3

b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G (1)(d) and G (1)(e) below 2

c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: Neutralization, dewatering, phase separation, or component separation 2

d. After prior approval of the director, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: Neutralization, dewatering, phase separation, or component separation . . . . . [1]1

e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), with prior approval of the director. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) . . . . . [1]1

2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit 2

3. Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10% of the replaced tank provided 1

-The capacity difference is no more than 1500 gallons,

-The facility's permitted tank capacity is not increased, and

-The replacement tank meets the same conditions in the permit.

4. Modification of a tank management practice 2

5. Management of different wastes in tanks:

a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in G (5)(c) below 3

b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in G (5)(d) 2

c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii). The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) . . . . . [1]1

(d) That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received waste of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

H. Surface Impoundments

1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity 3

2. Replacement of a surface impoundment unit 3

3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system 2

4. Modification of a surface impoundment management practice 2

5. Treatment, storage, or disposal of different wastes in surface impoundments:

a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit . . . 3

b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit 2

c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), and provided that the unit meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

6. Modifications of unconstructed units to comply with WAC 173-303-650 (2)(j), (10), (11), and (4)(d) *1

7. Changes in response action plan:

a. Increase in action leakage rate 3

b. Change in a specific response reducing its frequency or effectiveness 3

c. Other changes 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

I. Enclosed Waste Piles. For all waste piles except those complying with WAC 173-303-660 (1)(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with WAC 173-303-660 (1)(c).

1. Modification or addition of waste pile units:

a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity 3

b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity 2

2. Modification of waste pile unit without increasing the capacity of the unit 2

3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit 1

4. Modification of a waste pile management practice 2

5. Storage or treatment of different wastes in waste piles:

a. That require additional or different management practices or different design of the unit 3

b. That do not require additional or different management practices or different design of the unit 2

6. Conversion of an enclosed waste pile to a containment building unit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

J. Landfills and Unenclosed Waste Piles

1. Modification or addition of landfill units that result in increasing the facility's disposal capacity . . . 3

2. Replacement of a landfill 3

3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system 3

4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system 2

5. Modification of a landfill management practice 2

6. Landfill different wastes:

a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system 3

b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system . . 2

c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), and provided that the landfill unit meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

7. Modifications of unconstructed units to comply with WAC 173-303-660 (2)(j), (11), (12), (5)(c), 173-303-665 (2)(h), (8), (4)(c), and (9) *1

8. Changes in response action plan:

a. Increase in action leakage rate 3

b. Change in a specific response reducing its frequency or effectiveness. 3

c. Other changes 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

K. Land Treatment

1. Lateral expansion of or other modification of a land treatment unit to increase areal extent 3

2. Modification of run-on control system 2

3. Modify runoff control system 3

4. Other modifications of land treatment unit component specifications or standards required in permit 2

5. Management of different wastes in land treatment units:

a. That require a change in permit operating conditions or unit design specifications 3

b. That do not require a change in permit operating conditions or unit design specifications 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

6. Modification of a land treatment unit management practice to:

a. Increase rate or change method of waste application 3

b. Decrease rate of waste application 2

7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions 2

8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops 3

9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to WAC 173-303-655 (6)(g)(ii) 3

10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements 3

11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements 2

12. Changes in background values for hazardous constituents in soil and soil-pore liquid 2

13. Changes in sampling, analysis, or statistical procedure 2

14. Changes in land treatment demonstration program prior to or during the demonstration 2

15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the director's prior approval has been received 2

16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the director 2

17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration 3

18. Changes in vegetative cover requirements for closure 2

L. Incinerators, Boilers, and Industrial Furnaces

1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 2

3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HC1/$C1_2$, metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The director may require a new trial burn to demonstrate compliance with the regulatory performance standards 2

5. Operating requirements:

a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls . . 3

c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit 2

6. Burning different wastes:

a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

7. Shakedown and trial burn:

a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn 2

b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the director . . . . . [1]1

c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the director . . . . . [1]1

d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the director . . . . . [1]1

8. Substitution of an alternate type of nondangerous fuel that is not specified in the permit 1

M. Containment Buildings

1. Modification or addition of containment building units:

a. Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity. 3

b. Resulting in up to 25% increase in the facility's containment building storage or treatment capacity. . . 2

2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit. 2

3. Replacement of a containment building with a containment building that meets the same design standards provided:

a. The unit capacity is not increased. 1

b. The replacement containment building meets the same conditions in the permit. 1

4. Modification of a containment building management practice. 2

5. Storage or treatment of different wastes in containment buildings:

a. That require additional or different management practices. 3

b. That do not require additional or different management practices.	2
N. Corrective Action	
1. Approval of a corrective action management unit pursuant to WAC 173-303-646 (4), (5), and (6)	3
2. Approval of a temporary unit or time extension for a temporary unit pursuant to WAC 173-303-646(7)	2
3. Approval of a staging pile or staging pile operating term extension	2
4. Modification to incorporate a corrective action order issued pursuant to MTCA	3
5. Modification or amendment of a corrective action order issued pursuant to MTCA when the MTCA public participation requirements are met and order has already been incorporated by reference into the permit	1

[1]Class 1 modifications requiring prior Agency approval

(5) Permit termination. The director will follow the applicable procedures in WAC 173-303-840, procedures for decision making, in terminating any permit. The following are causes for terminating a permit during its term or for denying a permit renewal application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers public health or the environment and can only be regulated to acceptable levels by permit modification or termination.

[Statutory Authority: Chapters 70.105 and 70.105D RCW. 03-07-049 (Order 02-03), § 173-303-830, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. 00-11-040 (Order 99-01), § 173-303-830, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. 98-03-018 (Order 97-03), § 173-303-830, filed 1/12/98, effective 2/12/98; 95-22-008 (Order 94-30), § 173-303-830, filed 10/19/95, effective 11/19/95; 94-01-060 (Order 92-33), § 173-303-830, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 CFR Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). 91-07-005 (Order 90-42), § 173-303-830, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-830, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-830, filed 6/26/87; 84-09-088 (Order DE 83-36), § 173-303-830, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-830, filed 2/10/82.]

Chapter 173-314 WAC

WASTE TIRE CARRIER AND STORAGE SITE LICENSES

WAC

173-314-010 through 173-314-340 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-314-010	Authority and purpose. [Statutory Authority: RCW 70.95.555. 89-03-047 (Order 88-33), § 173-314-010, filed 1/13/89.] Repealed by 03-10-020 (Order 03-04), filed 4/28/03, effective 5/29/03. Statutory Authority: Chapter 70.95 RCW.
173-314-100	Definitions. [Statutory Authority: RCW 70.95.555. 89-03-047 (Order 88-33), § 173-314-100, filed 1/13/89.] Repealed by 03-10-020 (Order 03-04), filed 4/28/03, effective 5/29/03. Statutory Authority: Chapter 70.95 RCW.
173-314-200	Waste tire carrier license. [Statutory Authority: RCW 70.95.555. 89-03-047 (Order 88-33), § 173-314-200, filed 1/13/89.] Repealed by 03-10-020 (Order 03-04), filed 4/28/03, effective 5/29/03. Statutory Authority: Chapter 70.95 RCW.
173-314-210	Enforcement for waste tire carriers. [Statutory Authority: RCW 70.95.555. 89-03-047 (Order 88-33), § 173-314-210, filed 1/13/89.] Repealed by 03-10-020 (Order 03-04), filed 4/28/03, effective 5/29/03. Statutory Authority: Chapter 70.95 RCW.
173-314-220	Storage, disposal, and utilization. [Statutory Authority: RCW 70.95.555. 89-03-047 (Order 88-33), § 173-314-220, filed 1/13/89.] Repealed by 03-10-020 (Order 03-04), filed 4/28/03, effective 5/29/03. Statutory Authority: Chapter 70.95 RCW.
173-314-300	Waste tire storage site license. [Statutory Authority: RCW 70.95.555. 89-03-047 (Order 88-33), § 173-314-300, filed 1/13/89.] Repealed by 03-10-020 (Order 03-04), filed 4/28/03, effective 5/29/03. Statutory Authority: Chapter 70.95 RCW.
173-314-310	Variances. [Statutory Authority: RCW 70.95.555. 89-03-047 (Order 88-33), § 173-314-310, filed 1/13/89.] Repealed by 03-10-020 (Order 03-04), filed 4/28/03, effective 5/29/03. Statutory Authority: Chapter 70.95 RCW.
173-314-320	Enforcement for waste tire storage sites. [Statutory Authority: RCW 70.95.555. 89-03-047 (Order 88-33), § 173-314-320, filed 1/13/89.] Repealed by 03-10-020 (Order 03-04), filed 4/28/03, effective 5/29/03. Statutory Authority: Chapter 70.95 RCW.
173-314-330	Records. [Statutory Authority: RCW 70.95.555. 89-03-047 (Order 88-33), § 173-314-330, filed 1/13/89.] Repealed by 03-10-020 (Order 03-04), filed 4/28/03, effective 5/29/03. Statutory Authority: Chapter 70.95 RCW.
173-314-340	Reports. [Statutory Authority: RCW 70.95.555. 89-03-047 (Order 88-33), § 173-314-340, filed 1/13/89.] Repealed by 03-10-020 (Order 03-04), filed 4/28/03, effective 5/29/03. Statutory Authority: Chapter 70.95 RCW.

WAC 173-314-010 through 173-314-340 Repealed. See Disposition Table at beginning of this chapter.

Chapter 173-350 WAC

SOLID WASTE HANDLING STANDARDS

WAC

173-350-010	Purpose.
173-350-020	Applicability.
173-350-025	Owner responsibilities for solid waste.
173-350-030	Effective dates.
173-350-040	Performance standards.
173-350-100	Definitions.
173-350-200	Beneficial use permit exemptions.
173-350-210	Recycling.
173-350-220	Composting facilities.
173-350-230	Land application.
173-350-240	Energy recovery and incineration facilities.
173-350-300	On-site storage, collection and transportation standards.
173-350-310	Intermediate solid waste handling facilities.
173-350-320	Piles used for storage or treatment.
173-350-330	Surface impoundments and tanks.
173-350-350	Waste tire storage and transportation.
173-350-360	Moderate risk waste handling.
173-350-400	Limited purpose landfills.
173-350-410	Inert waste landfills.
173-350-490	Other methods of solid waste handling.
173-350-500	Ground water monitoring.
173-350-600	Financial assurance requirements.
173-350-700	Permits and local ordinances.
173-350-710	Permit application and issuance.
173-350-715	General permit application requirements.
173-350-900	Remedial action.
173-350-990	Criteria for inert waste.

WAC 173-350-010 Purpose. This chapter is adopted under the authority of chapter 70.95 RCW, Solid waste management—Reduction and recycling, to protect public health, to prevent land, air, and water pollution, and conserve the state's natural, economic, and energy resources by:

(1) Setting minimum functional performance standards for the proper handling and disposal of solid waste originating from residences, commercial, agricultural and industrial operations and other sources;

(2) Identifying those functions necessary to assure effective solid waste handling programs at both the state and local level;

(3) Following the priorities for the management of solid waste as set by the legislature in chapter 70.95 RCW, Solid waste management—Reduction and recycling.

(4) Describing the responsibility of persons, municipalities, regional agencies, state and local government related to solid waste;

(5) Requiring solid waste handling facilities to be located, designed, constructed, operated and closed in accordance with this chapter;

(6) Promoting regulatory consistency by establishing statewide minimum standards for solid waste handling; and

(7) Encouraging the development and operation of waste recycling facilities and activities needed to accomplish the management priority of waste recycling.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-010, filed 1/10/03, effective 2/10/03.]

WAC 173-350-020 Applicability. This chapter applies to facilities and activities that manage solid wastes as that term is defined in WAC 173-350-100. This chapter does not apply to the following:

(1) Overburden from mining operations intended for return to the mine;

(2) Wood waste used for ornamental, animal bedding, mulch and plant bedding, or road building purposes;

(3) Wood waste directly resulting from the harvesting of timber left at the point of generation and subject to chapter 76.09 RCW, Forest practices;

(4) Land application of manures and crop residues at agronomic rates;

(5) Home composting as defined in WAC 173-350-100;

(6) Single-family residences and single-family farms whose year round occupants engage in solid waste disposal regulated under WAC 173-351-700(4);

(7) Clean soils and clean dredged material as defined in WAC 173-350-100;

(8) Dredged material as defined in 40 CFR 232.2 that is subject to:

(a) The requirements of a permit issued by the U.S. Army Corps of Engineers or an approved state under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(b) The requirements of a permit issued by the U.S. Army Corps of Engineers under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

(c) In the case of U.S. Army Corps of Engineers civil works projects, the administrative equivalent of the permits referred to in (a) and (b) of this subsection, as provided for in U.S. Army Corps of Engineers regulations, including, for example, 33 CFR 336.1, 336.2, and 337.6;

(9) Biosolids that are managed under chapter 173-308 WAC, Biosolids management;

(10) Domestic septage taken to a sewage treatment plant permitted under chapter 90.48 RCW, Water pollution control;

(11) Liquid wastes, the discharge or potential discharge of which, is regulated under federal, state or local water pollution permits;

(12) Domestic wastewater facilities and industrial wastewater facilities otherwise regulated by federal, state, or local water pollution permits;

(13) Dangerous wastes fully regulated under chapter 70.105 RCW, Hazardous waste management, and chapter 173-303 WAC, Dangerous waste regulations;

(14) Special incinerator ash regulated under chapter 173-306 WAC, Special incinerator ash management standards;

(15) PCB wastes regulated under 40 CFR Part 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions, except for:

(a) PCB household waste; and

(b) PCB bulk product wastes identified in 40 CFR Part 761.62 (b)(1) that are disposed of in limited purpose landfills;

(16) Radioactive wastes, defined by chapter 246-220 WAC, Radiation protection—General provisions, and chapter 246-232 WAC, Radioactive protection—Licensing applicability;

(17) Landfilling of municipal solid waste regulated under chapter 173-351 WAC, Criteria for municipal solid waste landfills;

(18) Drop boxes used solely for collecting recyclable materials;

(19) Intermodal facilities as defined in WAC 173-350-100; and

(20) Solid waste handling facilities that have engaged in closure and closed before the effective date of this chapter.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-020, filed 1/10/03, effective 2/10/03.]

WAC 173-350-025 Owner responsibilities for solid waste. The owner, operator, or occupant of any premise, business establishment, or industry shall be responsible for the satisfactory and legal arrangement for the solid waste handling of all solid waste generated or accumulated by them on the property.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-025, filed 1/10/03, effective 2/10/03.]

WAC 173-350-030 Effective dates. (1) *Effective dates.* These standards apply to all facilities, except existing facilities, upon the effective date of this chapter.

(2) *Effective dates - Existing facilities*.

(a) The owner or operator of existing facilities shall:

(i) Meet all applicable operating, environmental monitoring, closure and post-closure planning, and financial assurance requirements of this chapter within twenty-four months of the effective date of this chapter; and

(ii) Meet all applicable performance and design requirements, other than location or setback requirements, within thirty-six months of the effective date of this chapter.

(b) These standards apply to all new solid waste handling units at existing facilities upon the effective date of this chapter.

(c) The owner or operator of existing facilities shall initiate the permit modification process outlined in WAC 173-350-710(4) within eighteen months after the effective date of this chapter. If a permit modification is necessary, every application for a permit modification shall describe the date and methods for altering an existing facility to meet (a)(i) through (iii) of this subsection.

(d) The jurisdictional health department shall determine if a new permit application is required based on the extent of the changes needed to bring the facility into compliance.

(e) An existing facility completing closure within twelve months of the effective date of this chapter may close in compliance with the requirements of chapter 173-304 WAC, Minimum functional standards for solid waste handling. Any facility that does not complete closure within twelve months of the effective date of this chapter shall close in compliance with applicable requirements of this chapter.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-030, filed 1/10/03, effective 2/10/03.]

WAC 173-350-040 Performance standards. The owner or operator of all solid waste facilities subject to this chapter shall:

(1) Design, construct, operate, and close all facilities in a manner that does not pose a threat to human health or the environment;

(2) Comply with chapter 90.48 RCW, Water pollution control and implementing regulations, including chapter 173-200 WAC, Water quality standards for ground waters of the state of Washington;

(3) Conform to the approved local comprehensive solid waste management plan prepared in accordance with chapter 70.95 RCW, Solid waste management—Reduction and recycling, and/or the local hazardous waste management plan prepared in accordance with chapter 70.105 RCW, Hazardous waste management;

(4) Not cause any violation of emission standards or ambient air quality standards at the property boundary of any facility and comply with chapter 70.94 RCW, Washington Clean Air Act; and

(5) Comply with all other applicable local, state, and federal laws and regulations.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-040, filed 1/10/03, effective 2/10/03.]

WAC 173-350-100 Definitions. When used in this chapter, the following terms have the meanings given below.

"Active area" means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being, are proposed to be, or have been conducted. Setbacks shall not be considered part of the active area of a facility.

"Agricultural composting" means composting of agricultural waste as an integral component of a system designed to improve soil health and recycle agricultural wastes. Agricultural composting is conducted on lands used for farming.

"Agricultural wastes" means wastes on farms resulting from the raising or growing of plants and animals including, but not limited to, crop residue, manure and animal bedding, and carcasses of dead animals weighing each or collectively in excess of fifteen pounds.

"Agronomic rates" means the application rate (dry weight basis) that will provide the amount of nitrogen or other critical nutrient required for optimum growth of vegetation, and that will not result in the violation of applicable standards or requirements for the protection of ground or surface water as established under chapter 90.48 RCW, Water pollution control and related rules including chapter 173-200 WAC, Water quality standards for ground waters of the state of Washington, and chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington.

"Air quality standard" means a standard set for maximum allowable contamination in ambient air as set forth in chapter 173-400 WAC, General regulations for air pollution sources.

"Below ground tank" means a device meeting the definition of "tank" in this chapter where a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface of the tank that is in the ground.

"Beneficial use" means the use of solid waste as an ingredient in a manufacturing process, or as an effective substitute for natural or commercial products, in a manner that does not pose a threat to human health or the environment. Avoidance of processing or disposal cost alone does not constitute beneficial use.

"Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process, that can be beneficially recycled and meets all applicable requirements under chapter 173-308 WAC, Biosolids management. Biosolids includes a material derived from biosolids and septic tank sludge, also known as septage, that can be beneficially recycled and meets all applicable requirements under chapter 173-308 WAC, Biosolids management.

"Buffer" means a permanently vegetated strip adjacent to an application area, the purpose of which is to filter runoff or overspray from the application area and protect an adjacent area.

"Cab cards" means a license carried in a vehicle that authorizes that vehicle to legally pick up waste tires and haul to a permitted, licensed facility or an exempt facility for deposit.

"Captive insurance companies" means companies that are wholly owned subsidiaries controlled by the parent company and established to insure the parent company or its other subsidiaries.

"Channel migration zone" means the lateral extent of likely movement of a stream or river channel along a stream reach.

"Clean soils and clean dredged material" means soils and dredged material that do not contain contaminants at concentrations which could negatively impact the existing quality of air, waters of the state, soils, or sediments; or pose a threat to the health of humans or other living organisms.

"Closure" means those actions taken by the owner or operator of a solid waste handling facility to cease disposal operations or other solid waste handling activities, to ensure that all such facilities are closed in conformance with appli-

cable regulations at the time of such closures and to prepare the site for the post-closure period.

"Closure plan" means a written plan developed by an owner or operator of a facility detailing how a facility is to close at the end of its active life.

"Composted material" means organic solid waste that has undergone biological degradation and transformation under controlled conditions designed to promote aerobic decomposition at a solid waste facility in compliance with the requirements of this chapter. Natural decay of organic solid waste under uncontrolled conditions does not result in composted material.

"Composting" means the biological degradation and transformation of organic solid waste under controlled conditions designed to promote aerobic decomposition. Natural decay of organic solid waste under uncontrolled conditions is not composting.

"Conditionally exempt small quantity generator (CESQG)" means a dangerous waste generator whose dangerous wastes are not subject to regulation under chapter 70.105 RCW, Hazardous waste management, solely because the waste is generated or accumulated in quantities below the threshold for regulation and meets the conditions prescribed in WAC 173-303-070 (8)(b).

"Conditionally exempt small quantity generator (CESQG) waste" means dangerous waste generated by a conditionally exempt small quantity generator.

"Container" means a portable device used for the collection, storage, and/or transportation of solid waste including, but not limited to, reusable containers, disposable containers, and detachable containers.

"Contaminant" means any chemical, physical, biological, or radiological substance that does not occur naturally in the environment or that occurs at concentrations greater than natural background levels.

"Contaminate" means the release of solid waste, leachate, or gases emitted by solid waste, such that contaminants enter the environment at concentrations that pose a threat to human health or the environment, or cause a violation of any applicable environmental regulation.

"Contaminated soils and contaminated dredged material" means soils and dredged material that contain contaminants at concentrations which could negatively impact the existing quality of air, waters of the state, soils or sediments, or pose a threat to the health of humans or other living organisms.

"Corrosion expert" means a person certified by the National Association of Corrosion Engineers (NACE) or a registered professional engineer who has certification or licensing that includes education and experience in corrosion control.

"Crop residues" means vegetative material leftover from the harvesting of crops, including leftover pieces or whole fruits or vegetables, crop leaves and stems. Crop residue does not include food processing waste.

"Dangerous wastes" means any solid waste designated as dangerous waste by the department under chapter 173-303 WAC, Dangerous waste regulations.

"Department" means the Washington state department of ecology.

"Detachable containers" means reusable containers that are mechanically loaded or handled, such as a dumpster or drop box.

"Disposable containers" means containers that are used once to handle solid waste, such as plastic bags, cardboard boxes and paper bags.

"Disposal" or **"deposition"** means the discharge, deposit, injection, dumping, leaking, or placing of any solid waste into or on any land or water.

"Domestic septage" means Class I, II or III domestic septage as defined in chapter 173-308 WAC, Biosolids management.

"Domestic wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of domestic wastewater together with such industrial waste as may be present.

"Drop box facility" means a facility used for the placement of a detachable container including the area adjacent for necessary entrance and exit roads, unloading and turn-around areas. Drop box facilities normally serve the general public with loose loads and receive waste from off-site.

"Energy recovery" means the recovery of energy in a useable form from mass burning or refuse-derived fuel incineration, pyrolysis or any other means of using the heat of combustion of solid waste that involves high temperature (above twelve hundred degrees Fahrenheit) processing.

"Existing facility" means a facility which is owned or leased, and in operation, or for which facility construction has begun, on or before the effective date of this chapter and the owner or operator has obtained permits or approvals necessary under federal, state and local statutes, regulations and ordinances.

"Facility" means all contiguous land (including buffers and setbacks) and structures, other appurtenances, and improvements on the land used for solid waste handling.

"Facility construction" means the continuous on-site physical act of constructing solid waste handling unit(s) or when the owner or operator of a facility has entered into contractual obligations for physical construction of the facility that cannot be canceled or modified without substantial financial loss.

"Facility structures" means constructed infrastructure such as buildings, sheds, utility lines, and piping on the facility.

"Garbage" means animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking, and serving of foods.

"Ground water" means that part of the subsurface water that is in the zone of saturation.

"Holocene fault" means a plane along which earthen material on one side has been displaced with respect to that on the other side and has occurred in the most recent epoch of the Quaternary period extending from the end of the Pleistocene to the present.

"Home composting" means composting of on-site generated wastes, and incidental materials beneficial to the composting process, by the owner or person in control of a single-family residence, or for a dwelling that houses two to five families, such as a duplex or clustered dwellings.

"Household hazardous wastes" means any waste which exhibits any of the properties of dangerous wastes that

is exempt from regulation under chapter 70.105 RCW, Hazardous waste management, solely because the waste is generated by households. Household hazardous waste can also include other solid waste identified in the local hazardous waste management plan prepared pursuant to chapter 70.105 RCW, Hazardous waste management.

"Hydrostratigraphic unit" means any water-bearing geologic unit or units hydraulically connected or grouped together on the basis of similar hydraulic conductivity which can be reasonably monitored; several geologic formations or part of a geologic formation may be grouped into a single hydrostratigraphic unit; perched sand lenses may be considered a hydrostratigraphic unit or part of a hydrostratigraphic unit, for example.

"Incineration" means reducing the volume of solid wastes by use of an enclosed device using controlled flame combustion.

"Incompatible waste" means a waste that is unsuitable for mixing with another waste or material because the mixture might produce excessive heat or pressure, fire or explosion, violent reaction, toxic dust, fumes, mists, or gases, or flammable fumes or gases.

"Industrial solid wastes" means solid waste generated from manufacturing operations, food processing, or other industrial processes.

"Industrial wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of industrial wastewater.

"Inert waste" means solid wastes that meet the criteria for inert waste in WAC 173-350-990.

"Inert waste landfill" means a landfill that receives only inert wastes.

"Intermediate solid waste handling facility" means any intermediate use or processing site engaged in solid waste handling which is not the final site of disposal. This includes material recovery facilities, transfer stations, drop boxes, baling and compaction sites.

"Intermodal facility" means any facility operated for the purpose of transporting closed containers of waste and the containers are not opened for further treatment, processing or consolidation of the waste.

"Jurisdictional health department" means city, county, city-county or district public health department.

"Land application site" means a contiguous area of land under the same ownership or operational control on which solid wastes are beneficially utilized for their agronomic or soil-amending capability.

"Land reclamation" means using solid waste to restore drastically disturbed lands including, but not limited to, construction sites and surface mines. Using solid waste as a component of fill is not land reclamation.

"Landfill" means a disposal facility or part of a facility at which solid waste is permanently placed in or on land including facilities that use solid waste as a component of fill.

"Leachate" means water or other liquid within a solid waste handling unit that has been contaminated by dissolved or suspended materials due to contact with solid waste or gases.

"Limited moderate risk waste" means waste batteries, waste oil, and waste antifreeze generated from households.

"Limited moderate risk waste facility" means a facility that collects, stores, and consolidates only limited moderate risk waste.

"Limited purpose landfill" means a landfill which is not regulated or permitted by other state or federal environmental regulations that receives solid wastes limited by type or source. Limited purpose landfills include, but are not limited to, landfills that receive segregated industrial solid waste, construction, demolition and landclearing debris, wood waste, ash (other than special incinerator ash), and dredged material. Limited purpose landfills do not include inert waste landfills, municipal solid waste landfills regulated under chapter 173-351 WAC, Criteria for municipal solid waste landfills, landfills disposing of special incinerator ash regulated under chapter 173-306 WAC, Special incinerator ash management standards, landfills regulated under chapter 173-303 WAC, Dangerous waste regulations, or chemical waste landfills used for the disposal of polychlorinated biphenyls (PCBs) regulated under Title 40 CFR Part 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions.

"Liquid" means a substance that flows readily and assumes the form of its container but retains its independent volume.

"Liquid waste" means any solid waste which is deemed to contain free liquids as determined by the Paint Filter Liquids Test, Method 9095, in "*Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,*" EPA Publication SW-846.

"Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete or asphalt, or unconsolidated earth materials, soil or regolith lying at or near the earth's surface.

"Local fire control agency" means a public or private agency or corporation providing fire protection such as a local fire department, the department of natural resources or the United States Forest Service.

"Lower explosive limits" means the lowest percentage by volume of a mixture of explosive gases that will propagate a flame in air at twenty-five degrees centigrade and atmospheric pressure.

"Material recovery facility" means any facility that collects, compacts, repackages, sorts, or processes for transport source separated solid waste for the purpose of recycling.

"Mobile systems and collection events" means activities conducted at a temporary location to collect moderate risk waste.

"Moderate risk waste (MRW)" means solid waste that is limited to conditionally exempt small quantity generator (CESQG) waste and household hazardous waste (HHW) as defined in this chapter.

"MRW facility" means a solid waste handling unit that is used to collect, treat, recycle, exchange, store, consolidate, and/or transfer moderate risk waste. This does not include mobile systems and collection events or limited MRW facilities that meet the applicable terms and conditions of WAC 173-350-360 (2) or (3).

"Municipal solid waste (MSW)" means a subset of solid waste which includes unsegregated garbage, refuse and similar solid waste material discarded from residential, commercial, institutional and industrial sources and community activities, including residue after recyclables have been separated. Solid waste that has been segregated by source and characteristic may qualify for management as a non-MSW solid waste, at a facility designed and operated to address the waste's characteristics and potential environmental impacts. The term MSW does not include:

? Dangerous wastes other than wastes excluded from the requirements of chapter 173-303 WAC, Dangerous waste regulations, in WAC 173-303-071 such as household hazardous wastes;

? Any solid waste, including contaminated soil and debris, resulting from response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601), chapter 70.105D RCW, Hazardous waste cleanup—Model Toxics Control Act, chapter 173-340 WAC, the Model Toxics Control Act cleanup regulation or a remedial action taken under those rules; nor

? Mixed or segregated recyclable material that has been source-separated from garbage, refuse and similar solid waste. The residual from source separated recyclables is MSW.

"Natural background" means the concentration of chemical, physical, biological, or radiological substances consistently present in the environment that has not been influenced by regional or localized human activities. Metals at concentrations naturally occurring in bedrock, sediments and soils due solely to the geologic processes that formed the materials are natural background. In addition, low concentrations of other persistent substances due solely to the global use or formation of these substances are natural background.

"New solid waste handling unit" means a solid waste handling unit that begins operation or facility construction, and significant modifications to existing solid waste handling units, after the effective date of this chapter.

"Nuisance odor" means any odor which is found offensive or may unreasonably interfere with any person's health, comfort, or enjoyment beyond the property boundary of a facility.

"One hundred year flood plain" means any land area that is subject to one percent or greater chance of flooding in any given year from any source.

"Open burning" means the burning of solid waste materials in an open fire or an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

"Overburden" means the earth, rock, soil, and topsoil that lie above mineral deposits.

"Permeability" means the ease with which a porous material allows liquid or gaseous fluids to flow through it. For water, this is usually expressed in units of centimeters per second and termed hydraulic conductivity.

"Permit" means an authorization issued by the jurisdictional health department which allows a person to perform solid waste activities at a specific location and which includes specific conditions for such facility operations.

"Person" means an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatever.

"Pile" means any noncontainerized accumulation of solid waste that is used for treatment or storage.

"Plan of operation" means the written plan developed by an owner or operator of a facility detailing how a facility is to be operated during its active life.

"Point of compliance" means a point established in the ground water by the jurisdictional health department as near a possible source of release as technically, hydrogeologically and geographically feasible.

"Post-closure" means the requirements placed upon disposal facilities after closure to ensure their environmental safety for at least a twenty-year period or until the site becomes stabilized (i.e., little or no settlement, gas production, or leachate generation).

"Post-closure plan" means a written plan developed by an owner or operator of a facility detailing how a facility is to meet the post-closure requirements for the facility.

"Premises" means a tract or parcel of land with or without habitable buildings.

"Private facility" means a privately owned facility maintained on private property solely for the purpose of managing waste generated by the entity owning the site.

"Processing" means an operation to convert a material into a useful product or to prepare it for reuse, recycling, or disposal.

"Product take-back center" means a retail outlet or distributor that accepts household hazardous waste of comparable types as the products offered for sale or distributed at that outlet.

"Public facility" means a publicly or privately owned facility that accepts solid waste generated by other persons;

"Putrescible waste" means solid waste which contains material capable of being readily decomposed by microorganisms and which is likely to produce offensive odors.

"Pyrolysis" means the process in which solid wastes are heated in an enclosed device in the absence of oxygen to vaporization, producing a hydrocarbon-rich gas capable of being burned for recovery of energy.

"Recyclable materials" means those solid wastes that are separated for recycling or reuse, including, but not limited to, papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan.

"Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration. Recycling does not include collection, compacting, repackaging, and sorting for the purpose of transport.

"Representative sample" means a sample that can be expected to exhibit the average properties of the sample source.

"Reserved" means a section having no requirements and which is set aside for future possible rule making as a note to the regulated community.

"Reusable containers" means containers that are used more than once to handle solid waste, such as garbage cans.

"Runoff" means any rainwater, leachate or other liquid that drains over land from any part of the facility.

"Run-on" means any rainwater or other liquid that drains over land onto any part of a facility.

"Scavenging" means the removal of materials at a disposal facility, or intermediate solid waste-handling facility, without the approval of the owner or operator and the jurisdictional health department.

"Seismic impact zone" means an area with a ten percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in two hundred fifty years.

"Setback" means that part of a facility that lies between the active area and the property boundary.

"Sewage sludge" means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated.

"Soil amendment" means any substance that is intended to improve the physical characteristics of soil, except composted material, commercial fertilizers, agricultural liming agents, unmanipulated animal manures, unmanipulated vegetable manures, food wastes, food processing wastes, and materials exempted by rule of the department, such as biosolids as defined in chapter 70.95J RCW, Municipal sewage sludge—Biosolids and wastewater, as regulated in chapter 90.48 RCW, Water pollution control.

"Solid waste" or **"wastes"** means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, contaminated soils and contaminated dredged material, and recyclable materials.

"Solid waste handling" means the management, storage, collection, transportation, treatment, use, processing or final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes or the conversion of the energy in such wastes to more useful forms or combinations thereof.

"Solid waste handling unit" means discrete areas of land, sealed surfaces, liner systems, excavations, facility structures, or other appurtenances within a facility used for solid waste handling.

"Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

"Storage" means the holding of solid waste materials for a temporary period.

"Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquids or sludges. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

"Surface water" means all lakes, rivers, ponds, wetlands, streams, inland waters, salt waters and all other surface water and surface water courses within the jurisdiction of the state of Washington.

"Tank" means a stationary device designed to contain an accumulation of liquid or semisolid materials meeting the definition of solid waste or leachate, and which is constructed primarily of nonearthen materials to provide structural support.

"Transfer station" means a permanent, fixed, supplemental collection and transportation facility, used by persons and route collection vehicles to deposit collected solid waste from off-site into a larger transfer vehicle for transport to a solid waste handling facility.

"Treatment" means the physical, chemical, or biological processing of solid waste to make such solid wastes safer for storage or disposal, amenable for recycling or energy recovery, or reduced in volume.

"Twenty-five-year storm" means a storm of twenty-four hours duration and of such intensity that it has a four percent probability of being equaled or exceeded each year.

"Type 1 feedstocks" means source-separated yard and garden wastes, wood wastes, agricultural crop residues, wax-coated cardboard, preconsumer vegetative food wastes, other similar source-separated materials that the jurisdictional health department determines to have a comparable low level of risk in hazardous substances, human pathogens, and physical contaminants.

"Type 2 feedstocks" means manure and bedding from herbivorous animals that the jurisdictional health department determines to have a comparable low level of risk in hazardous substances and physical contaminants when compared to a type 1 feedstock.

"Type 3 feedstocks" means meat and postconsumer source-separated food wastes or other similar source-separated materials that the jurisdictional health department determines to have a comparable low level of risk in hazardous substances and physical contaminants, but are likely to have high levels of human pathogens.

"Type 4 feedstocks" means mixed municipal solid wastes, postcollection separated or processed solid wastes, industrial solid wastes, industrial biological treatment sludges, or other similar compostable materials that the jurisdictional health department determines to have a comparable high level of risk in hazardous substances, human pathogens and physical contaminants.

"Universal wastes" means universal wastes as defined in chapter 173-303 WAC, Dangerous waste regulations. Universal wastes include, but may not be limited to, dangerous waste batteries, mercury-containing thermostats, and universal waste lamps generated by fully regulated dangerous waste generators or CESQGs.

"Unstable area" means a location that is susceptible to forces capable of impairing the integrity of the facility's liners, monitoring system or structural components. Unstable areas can include poor foundation conditions and areas susceptible to mass movements.

"Vadose zone" means that portion of a geologic formation in which soil pores contain some water, the pressure of that water is less than atmospheric pressure, and the formation occurs above the zone of saturation.

"Vector" means a living animal, including, but not limited to, insects, rodents, and birds, which is capable of transmitting an infectious disease from one organism to another.

"Vermicomposting" means the controlled and managed process by which live worms convert organic residues into dark, fertile, granular excrement.

"Waste tires" means any tires that are no longer suitable for their original intended purpose because of wear, damage or defect. Used tires, which were originally intended for use on public highways that are considered unsafe in accordance with RCW 46.37.425, are waste tires. Waste tires also include quantities of used tires that may be suitable for their original intended purpose when mixed with tires considered unsafe per RCW 46.37.425.

"Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Wood derived fuel" means wood pieces or particles used as a fuel for energy recovery, which contain paint, bonding agents, or creosote. Wood derived fuel does not include wood pieces or particles coated with paint that contains lead or mercury, or wood treated with other chemical preservatives such as pentachlorophenol, copper naphthanate, or copper-chrome-arsenate.

"Wood waste" means solid waste consisting of wood pieces or particles generated as a by-product or waste from the manufacturing of wood products, construction, demolition, handling and storage of raw materials, trees and stumps. This includes, but is not limited to, sawdust, chips, shavings, bark, pulp, hogged fuel, and log sort yard waste, but does not include wood pieces or particles containing paint, laminates, bonding agents or chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

"Yard debris" means plant material commonly created in the course of maintaining yards and gardens and through horticulture, gardening, landscaping or similar activities. Yard debris includes, but is not limited to, grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, and vegetable garden debris.

"Zone of saturation" means that part of a geologic formation in which soil pores are filled with water and the pressure of that water is equal to or greater than atmospheric pressure.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-100, filed 1/10/03, effective 2/10/03.]

WAC 173-350-200 Beneficial use permit exemptions. (1) *Beneficial use permit exemption - Applicability*. Any person may apply to the department for exemption from the permitting requirements of this chapter for beneficial use of solid waste. Applications for permit exemptions shall be prepared and submitted in accordance with the requirements of subsections (3) and (4) of this section. Upon the department's approval of an application for permit exemption, all approved beneficial use of solid waste shall be conducted in accordance with the terms and conditions for approval, as well as those general terms and conditions prescribed in subsection (2) of this section.

(2) *Beneficial use permit exemption - General terms and conditions*.

(a) The following general terms and conditions apply to all permit exempt beneficial uses of solid waste. All persons beneficially using solid waste approved for permit exemption in accordance with this section shall:

(i) Conduct the beneficial use in a manner that does not present a threat to human health or the environment;

(ii) Ensure that the material is not a dangerous waste regulated under chapter 173-303 WAC, Dangerous waste regulations;

(iii) Not dilute a waste, or the residual from treatment of a waste, as a substitute for treatment or disposal;

(iv) Comply with all applicable federal, state, and local rules, regulations, requirements and codes, and local land use requirements;

(v) Immediately notify the department and the jurisdictional health department of any accidental release(s) of contaminants to the environment;

(vi) Separate wastes intended for beneficial use from wastes that are destined for disposal, prior to entering the location where the beneficial use will occur;

(vii) Manage the waste in a manner that controls vector attraction;

(viii) Ensure that solid waste being stored prior to being beneficially used is managed in accordance with the requirements of all applicable sections of this chapter;

(ix) Allow the department or the jurisdictional health department, at any reasonable time, to inspect the location where a permit exempt solid waste is stored or used to ensure compliance with applicable terms and conditions of this section; and

(x) Prepare and submit a copy of an annual report to the department by April 1st on forms supplied by the department. The annual report shall detail the activities of the exemption holder during the previous calendar year and shall include the following information:

(A) The permit exemption number applicable to the beneficial use activity;

(B) The name, address, and telephone number of the exemption holder;

(C) The amount of solid waste beneficially used;

(D) A certification that the nature of the waste and the operating practices have been in compliance with the terms and conditions of this section and the beneficial use permit exemption during the calendar year; and

(E) Any additional information that may be specified by the department under the beneficial use permit exemption.

(b) In addition to the general terms and conditions established in (a) of this subsection, solid wastes applied to the land for agronomic value or soil amending capability under a beneficial use permit exemption shall:

(i) Meet the metals standards required by the Washington state department of agriculture (WSDA) for registered commercial fertilizers by following the procedures of WAC 16-200-7062 through 16-200-7064, Feeds, fertilizers, and livestock remedies;

(ii) Be applied at an application rate and in a manner that ensures protection of ground water and surface water. At a minimum, the application rate shall take into account the concentration of available nutrients and micronutrients in the soil

amendment, other solid waste applied to the land, residual nutrients at the application site(s), additional sources of nutrients, pollutant loading rates, soil and waste pH, soil type, crop type and vertical separation from ground water; and

(iii) Not be stored at an application site during periods when precipitation or wind will cause migration from the storage area, unless the site is specifically designed to accommodate storage during these periods. The quantity stored at an application site shall not exceed the maximum needed to meet the annual needs of the site based on the approved application rate. When a soil amendment is stored at an application site it shall not contain liquid waste unless the requirements of WAC 173-350-330 are met.

(c) The department may require a person operating under any exemption issued under this section to meet additional or more stringent requirements for protection of human health and the environment, or to ensure compliance with other applicable regulations:

(i) At the time the department approves an application for a beneficial use permit exemption; or

(ii) When new information becomes available that warrants additional protections, but in the opinion of the department does not necessitate revocation of the beneficial use permit exemption.

(d) The department shall notify in writing the exempted party and all jurisdictional health departments of any additional or more stringent requirements.

(3) *Beneficial use permit exemption - Initial application procedure*. Any person(s) interested in obtaining a statewide exemption from solid waste permitting requirements for the beneficial use of a solid waste must demonstrate to the satisfaction of the department that the proposed use does not present a threat to human health and the environment. Applications shall be submitted to the department on a form supplied by the department. All application attachments and other submittals must be on paper no larger than 11 inch x 17 inch. The application shall at a minimum contain the following:

(a) The name(s), address(es) and phone number(s) of the waste generator(s);

(b) The name(s), address(es) and phone number(s) of the applicant. If the applicant is a broker or other third party the uniform business identifier number shall also be included;

(c) A list of all product(s) made by the waste generator(s);

(d) A list of all feedstocks used to manufacture the product(s);

(e) A description of the solid waste and the proposed beneficial use;

(f) A description of how the waste will be transported or distributed for the proposed beneficial use;

(g) A description of other materials that contribute or potentially contribute contaminants/pollutants to the waste to be beneficially used;

(h) A schematic and text summary of the waste generator(s) operations, including all points where wastes are generated, treated or stored;

(i) A description of how terms and conditions of subsection (2)(a) of this section will be met;

(j) A State Environmental Policy Act checklist;

(k) If the beneficial use is proposed as a soil amendment, or for other solid wastes beneficially applied to the land, a description of how the terms and conditions of subsection (2)(b) of this section will be met; and

(l) Any additional information deemed necessary by the department.

(4) *Beneficial use permit exemption - Secondary application procedure*. Beneficial use permit exemptions, approved by the department in accordance with the procedures of subsection (5) of this section, are granted solely to the original applicant(s). Any person, other than the original applicant(s), interested in beneficially using solid waste pursuant to the terms and conditions of an existing permit exemption shall apply to the department by following the procedures described in subsection (3) of this section.

(5) *Beneficial use permit exemption - Determination, revocation, and appeals*.

(a) The department shall review every application for completeness. Once an application is determined to be complete, the department shall:

(i) Notify the applicant that the application has been determined to be complete.

(ii) Forward a copy of the complete application and supporting documentation to all jurisdictional health departments for review and comment. Within forty-five calendar days, the jurisdictional health departments shall forward their comments and any other information that they deem relevant to the department.

(iii) The department shall develop and maintain a register of all complete applications it receives for beneficial use exemptions. The register shall include information regarding the proposed beneficial use and process for submitting comments. The department shall maintain a list of interested parties and forward the register to those parties. The department may provide the register and application information in an electronic form upon request by an interested party.

(b) Once a determination is made by the department that an application is complete and the public review process has begun, any changes to the application or submittal of additional information by the applicant shall result in a withdrawal of the completeness determination by the department and termination of the public review process. The department shall resume review of the amended application in accordance with the procedures of (a) of this subsection.

(c) After completion of the comment period, the department shall review comments, technical information from agency and other publications, standards published in regulations, and other information deemed relevant by the department to render a decision.

(d) Every complete application shall be approved or disapproved by the department in writing within ninety days after receipt. Exemptions shall be granted by the department only to those beneficial uses of solid waste that the department determines do not present a threat to human health or the environment.

(e) Upon approval of the application by the department, the beneficial use of the solid waste by the original applicant is exempt from solid waste handling permitting for use anywhere in the state consistent with the terms and conditions of the approval.

(f) The department may require a person operating under any exemption covered by this section to apply to the juris-

dictional health department for a solid waste handling permit under the applicable section of this chapter if:

(i) The exemption holder fails to comply with the terms and conditions of this section and the approval; or

(ii) The department determines that the exemption was obtained by misrepresenting or omitting any information that potentially could have affected the issuance or terms and conditions of an exemption; or

(iii) New information not previously considered or available as part of the application demonstrates to the department that management of the waste under a beneficial use permit exemption may present a threat to human health or the environment.

(g) The department shall provide written notification to the exempted party and all jurisdictional health departments of any requirement to apply for a permit under this chapter. A person that is required by the department to apply for permit coverage shall immediately cease beneficial use activities until all necessary solid waste handling permits are issued.

(h) The terms and conditions of subsection (2)(a)(viii) of this section shall remain in effect until the solid waste handling permit process has been completed.

(i) Any person that violates the terms and conditions of a beneficial use permit exemption issued under this section may be subject to the civil penalty provisions of RCW 70.95.315.

(j) Appeals of the department's decision to issue or deny or revoke a beneficial use permit exemption shall be made to the pollution control hearings board by filing with the hearings board a notice of appeal within thirty days of the decision of the department. The board's review of the decision shall be made in accordance with chapter 43.21B RCW, Environmental hearing office—Pollution control hearings board, and any subsequent appeal of a decision of the board shall be made in accordance with RCW 43.21B.180.

Persons that may appeal are:

(i) For waste derived soil amendments any aggrieved party may appeal.

(ii) For all other beneficial uses of solid waste any jurisdictional health department or the applicant may appeal.

(6) *Beneficial use permit exemption - Solid waste exempt from permitting by rule*. Reserved.

Note: RCW 70.95.300 contains provisions that **allow** the department to exempt from permitting certain beneficial uses of solid waste by rule. The statute also requires the department to develop an application and approval process by which a person could apply for a beneficial use permit exemption. At this time the department has chosen to limit rule making to development of the required application and approval process, and hold a section in reserve for future development of a list of approved beneficial uses.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-200, filed 1/10/03, effective 2/10/03.]

WAC 173-350-210 Recycling. (1) *Recycling - Applicability*. These standards apply to recycling solid waste. These standards do not apply to:

(a) Storage, treatment or recycling of solid waste in piles which are subject to WAC 173-350-320;

(b) Storage or recycling of solid waste in surface impoundments which are subject to WAC 173-350-330;

(c) Composting facilities subject to WAC 173-350-220;

(d) Solid waste that is beneficially used on the land that is subject to WAC 173-350-230;

(e) Storage of waste tires prior to recycling which is subject to WAC 173-350-350;

(f) Storage of moderate risk waste prior to recycling which is subject to WAC 173-350-360;

(g) Energy recovery or incineration of solid waste which is subject to WAC 173-350-240;

(h) Intermediate solid waste handling facilities subject to WAC 173-350-310.

(2) *Recycling - Permit exemption and notification*.

(a) In accordance with RCW 70.95.305, recycling of solid waste is subject solely to the requirements of (b) of this subsection and is exempt from solid waste handling permitting. Any person engaged in recycling that does not comply with the terms and conditions of (b) of this subsection is required to obtain a permit from the jurisdictional health department in accordance with the requirements of WAC 173-350-490. In addition, violations of the terms and conditions of (b) of this subsection may be subject to the penalty provisions of RCW 70.95.315.

(b) Recycling shall be conducted in conformance with the following terms and conditions in order to maintain permit exempt status:

(i) Meet the performance standards of WAC 173-350-040;

(ii) Accept only source separated solid waste for the purpose of recycling;

(iii) Allow inspections by the department or jurisdictional health department at reasonable times;

(iv) Notify the department and jurisdictional health department, thirty days prior to operation, or ninety days from the effective date of the rule for existing recycling operations, of the intent to conduct recycling in accordance with this section. Notification shall be in writing, and shall include:

(A) Contact information for the person conducting the recycling activity;

(B) A general description of the recycling activity;

(C) A description of the types of solid waste being recycled; and

(D) An explanation of the recycling processes and methods;

(v) Prepare and submit an annual report to the department and the jurisdictional health department by April 1st on forms supplied by the department. The annual report shall detail recycling activities during the previous calendar year and shall include the following information:

(A) Name and address of the recycling operation;

(B) Calendar year covered by the report;

(C) Annual quantities and types of waste received, recycled and disposed, in tons, for purposes of determining progress towards achieving the goals of waste reduction, waste recycling, and treatment in accordance with RCW 70.95.010(4); and

(D) Any additional information required by written notification of the department.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-210, filed 1/10/03, effective 2/10/03.]

WAC 173-350-220 Composting facilities. (1) *Composting facilities - Applicability*.

(a) This section is applicable to all facilities or sites that treat solid waste by composting. This section is not applicable to:

(i) Composting used as a treatment for dangerous wastes regulated under chapter 173-303 WAC, Dangerous waste regulation;

(ii) Composting used as a treatment for petroleum contaminated soils regulated under WAC 173-350-320;

(iii) Treatment of liquid sewage sludge or biosolids in digesters at wastewater treatment facilities regulated under chapter 90.48 RCW, Water pollution control and chapter 70.95J RCW, Municipal sewage sludge—Biosolids;

(iv) Treatment of other liquid solid wastes in digesters regulated under WAC 173-350-330; and

(v) Composting biosolids when permitted under chapter 173-308 WAC, Biosolids management.

(b) In accordance with RCW 70.95.305, the operation of the following activities in this subsection are subject solely to the requirements of (c) of this subsection and are exempt from solid waste handling permitting. An owner or operator that does not comply with the terms and conditions of (c) of this subsection is required to obtain a permit from the jurisdictional health department and shall comply with all other applicable requirements of this chapter. In addition, violations of the terms and conditions of (c) of this subsection may be subject to the penalty provisions of RCW 70.95.315.

(i) Production of substrate used solely on-site to grow mushrooms;

(ii) Vermicomposting, when used to process Type 1, Type 2, or Type 3 feedstocks generated on-site;

(iii) Composting of Type 1 or Type 2 feedstocks with a volume limit of forty cubic yards of material on-site at any time. Material on-site includes feedstocks, partially composted feedstocks, and finished compost;

(iv) Composting of food waste generated on-site and composted in containers designed to prohibit vector attraction and prevent nuisance odor generation. Total volume of the containers shall be limited to ten cubic yards or less;

(v) Agricultural composting when all the agricultural wastes are generated on-site and all finished compost is used on-site;

(vi) Agricultural composting when any agricultural wastes are generated off-site, and all finished compost is used on-site, and total volume of material is limited to one thousand cubic yards on-site at any time. Material on-site includes feedstocks, partially composted feedstocks, and finished compost; and

(vii) Agricultural composting at registered dairies when the composting is a component of a fully certified dairy nutrient management plan as required by chapter 90.64 RCW, Dairy Nutrient Management Act.

(viii) Composting of Type 1 or Type 2 feedstocks when more than forty cubic yards and less than two hundred fifty cubic yards of material is on-site at any one time.

(ix) Agricultural composting, when any of the finished compost is distributed off-site and when it meets the following requirements:

(A) More than forty cubic yards, but less than one thousand cubic yards of agricultural waste is on-site at any time; and

(B) Agricultural composting is managed according to a farm management plan written in conjunction with a conservation district, a qualified engineer, or other agricultural professional able to certify that the plan meets applicable conservation practice standards in the *Washington Field Office Technical Guide* produced by the Natural Resources Conservation Service.

(x) Vermicomposting when used to process Type 1 or Type 2 feedstocks generated off-site. Total volume of materials is limited to one thousand cubic yards on-site at any one time.

(c) Composting operations identified in subsection (b) shall be managed according to the following terms and conditions to maintain their exempt status:

(i) Comply with the performance standards of WAC 173-350-040;

(ii) Protect surface water and ground water through the use of best management practices and all known available and reasonable methods of prevention, control, and treatment as appropriate. This includes, but is not limited to, setbacks from wells, surface waters, property lines, roads, public access areas, and site-specific setbacks when appropriate;

(iii) Control nuisance odors to prevent migration beyond property boundaries;

(iv) Manage the operation to prevent attraction of flies, rodents, and other vectors;

(v) Conduct an annual analysis, prepared in accordance with the requirements of subsection (4)(a)(viii) of this section, for composted material that is distributed off-site from categorically exempt facilities described in subsection (1)(b)(vii) through (ix) of this section.

(vi) Prepare and submit an annual report to the department and the jurisdictional health department by April 1st for categorically exempt facilities described in subsection (1)(b)(vii) through (ix) of this section. Annual reports are not required for facilities operating under the permit exemption provided in (b)(vii) of this subsection if the composted material is not distributed off-site. The annual report shall be on forms supplied by the department and shall detail facility activities during the previous calendar year and shall include the following information:

(A) Name and address of the facility;

(B) Calendar year covered by the report;

(C) Annual quantity and type of feedstocks received and compost produced, in tons;

(D) Annual quantity of composted material sold or distributed, in tons;

(E) Results of the annual analysis of composted material required by subsection (1)(c)(v) of this section; and

(F) Any additional information required by written notification of the department.

(vii) Allow the department or the jurisdictional health department to inspect the site at reasonable times;

(viii) For activities under (b)(viii) through (x) of this subsection, and registered dairies where compost is distributed off-site, the department and jurisdictional health department shall be notified in writing thirty days prior to beginning any composting activity. Notification shall include name of

owner or operator, location of composting operation and identification of feedstocks.

(2) *Composting facilities - Location standards*. There are no specific location standards for composting facilities subject to this chapter; however, composting facilities must meet the requirements provided under WAC 173-350-040(5).

(3) *Composting facilities - Design standards*. The owner or operator of a composting facility shall prepare engineering reports/plans and specifications, including a construction quality assurance plan, to address the design standards of this subsection. Scale drawings of the facility including the location and size of feedstock and finished product storage areas, compost processing areas, fixed equipment, buildings, leachate collection devices, access roads and other appurtenant facilities; and design specifications for compost pads, storm water run-on prevention system, and leachate collection and conveyance systems shall be provided. All composting facilities shall be designed and constructed to meet the following requirements:

(a) When necessary to provide public access, all-weather roads shall be provided from the public highway or roads to and within the compost facility and shall be designed and maintained to prevent traffic congestion, traffic hazards, dust and noise pollution;

(b) Composting facilities shall separate storm water from leachate by designing storm water run-on prevention systems, which may include covered areas (roofs), diversion swales, ditches or other designs to divert storm water from areas of feedstock preparation, active composting and curing;

(c) Composting facilities shall collect any leachate generated from areas of feedstock preparation, active composting and curing. The leachate shall be conveyed to a leachate holding pond, tank or other containment structure. The leachate holding structure shall be of adequate capacity to collect the amount of leachate generated, and the volume calculations shall be based on the facility design, monthly water balance, and precipitation data. Leachate holding ponds and tanks shall be designed according to the following:

(i) For leachate ponds at registered dairies, the design and installation shall meet Natural Resources Conservation Service standards for a waste storage facility in the *Washington Field Office Technical Guide*.

(ii) For leachate ponds at composting facilities other than registered dairies, the pond shall be designed to meet the following requirements:

(A) Have a liner consisting of a minimum 30-mil thickness geomembrane overlying a structurally stable foundation to support the liners and the contents of the impoundment. High density polyethylene geomembranes used as primary liners or leak detection liners shall be at least 60-mil thick to allow for proper welding. The jurisdictional health department may approve the use of alternative designs if the owner or operator can demonstrate during the permitting process that the proposed design will prevent migration of solid waste constituents or leachate into the ground or surface waters at least as effectively as the liners described in this subsection;

(B) Have dikes and slopes designed to maintain their structural integrity under conditions of a leaking liner and capable of withstanding erosion from wave action, overfilling, or precipitation;

(C) Have freeboard equal to or greater than eighteen inches to avoid overtopping from wave action, overfilling, or precipitation. The jurisdictional health department may reduce the freeboard requirement provided that other engineering controls are in place which prevent overtopping. These engineering controls shall be specified during the permitting process;

(D) Leachate ponds that have the potential to impound more than ten-acre feet (three million two hundred fifty-nine thousand gallons) of liquid measured from the top of the dike and which would be released by a failure of the containment dike shall be reviewed and approved by the dam safety section of the department.

(iii) Tanks used to store leachate shall meet design standards in WAC 173-350-330 (3)(b).

(d) Composting facilities shall be designed with process parameters and management procedures that promote an aerobic composting process. This requirement is not intended to mandate forced aeration or any other specific composting technology. This requirement is meant to ensure that compost facility designers take into account porosity, nutrient balance, pile oxygen, pile moisture, pile temperature, and retention time of composting when designing a facility.

(e) Incoming feedstocks, active composting, and curing materials shall be placed on compost pads that meet the following requirements:

(i) All compost pads shall be curbed or graded in a manner to prevent ponding, run-on and runoff, and direct all leachate to collection devices. Design calculations shall be based upon the volume of water resulting from a twenty-five-year storm event as defined in WAC 173-350-100;

(ii) All compost pads shall be constructed over soils that are competent to support the weight of the pad and the proposed composting materials;

(iii) The entire surface area of the compost pad shall maintain its integrity under any machinery used for composting activities at the facility; and

(iv) The compost pad shall be constructed of materials such as concrete (with sealed joints), asphaltic concrete, or soil cement to prevent subsurface soil and ground water contamination;

(v) The jurisdictional health department may approve other materials for compost pad construction if the permit applicant is able to demonstrate that the compost pad will meet the requirements of this subsection.

(4) *Composting facilities - Operating standards*. The owner or operator of a composting facility shall:

(a) Operate the facility to:

(i) Control dust, nuisance odors, and other contaminants to prevent migration of air contaminants beyond property boundaries;

(ii) Prevent the attraction of vectors;

(iii) Ensure that only feedstocks identified in the approved plan of operation are accepted at the facility;

(iv) Ensure the facility operates under the supervision and control of a properly trained individual during all hours of operation, and access to the facility is restricted when the facility is closed;

(v) Ensure facility employees are trained in appropriate facility operations, maintenance procedures, and safety and

emergency procedures according to individual job duties and according to an approved plan of operation;

(vi) Implement and document pathogen reduction activities when Type 2, 3 or 4 feedstocks are composted. Documentation shall include compost pile temperature and notation of turning as appropriate, based on the composting method used. Pathogen reduction activities shall at a minimum include the following:

(A) In vessel composting - the temperature of the active compost pile shall be maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher for three days; or

(B) Aerated static pile - the temperature of the active compost pile shall be maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher for three days; or

(C) Windrow composting - the temperature of the active compost pile shall be maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher for fifteen days or longer. During the period when the compost is maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher, there shall be a minimum of five turnings of the windrow; or

(D) An alternative method that can be demonstrated by the owner or operator to achieve an equivalent reduction of human pathogens;

(vii) Monitor the composting process according to the plan of operation submitted during the permitting process. Monitoring shall include inspection of incoming loads of feedstocks and pathogen reduction requirements of (a)(vi) of this subsection; and

(viii) Analyze composted material for:

(A) Metals in Table A at the minimum frequency listed in Table C. Compost facilities composting only Type 1 and Type 2 feedstocks are not required to test for molybdenum and selenium. Testing frequency is based on the feedstock type and the volume of feedstocks processed per year;

(B) Parameters in Table B at the minimum frequency listed in Table C. Testing frequency is based on the feedstock type and the volume of feedstocks processed per year;

(C) Nitrogen content at the minimum frequency listed in Table C; and

(D) Biological stability as outlined in United States Composting Council Test Methods for the Examination of Composting and Compost at the minimum frequency listed in Table C;

(E) The jurisdictional health department may require testing of additional metal or contaminants, and/or modify the frequency of testing based on historical data for a particular facility, to appropriately evaluate the composted material.

Table A - Metals

Metal	Limit (mg/kg dry weight)
Arsenic	< = 20 ppm
Cadmium	< = 10 ppm
Copper	< = 750 ppm
Lead	< = 150 ppm
Mercury	< = 8 ppm
Molybdenum[1]	< = 9 ppm
Nickel	< = 210 ppm
Selenium[1]	< = 18 ppm
Zinc	< = 1400 ppm

[1]Not required for composted material made from Type 1, Type 2 or a mixture of Type 1 and Type 2 feedstocks.

Table B - Other Testing Parameters

Parameter	Limit
Manufactured Inerts	< 1 percent
Sharps	0
pH	5 - 10 (range)
Fecal Coliform	< 1,000 Most Probable Number per gram of total solids (dry weight).
Salmonella	< 3 Most Probable Number per 4 grams of total solids (dry weight).

Table C - Frequency of Testing Based on Feedstocks Received

Feedstock Type	< 5,000 cubic yards	= or > 5,000 cubic yards
Type 1 or Type 2	Once per year	Every 10,000 cubic yards or every six months whichever is more frequent
Type 3	Once per quarter (four times per year)	Every 5,000 cubic yards or every other month whichever is more frequent
Type 4	Every 1,000 cubic yards	Every 1,000 cubic yards or once per month whichever is more frequent

(b) Inspect the facility to prevent malfunctions and deterioration, operator errors and discharges, which may cause or lead to the release of waste to the environment or a threat to human health. Inspections shall be conducted at least weekly, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process. For compost facilities with leachate holding ponds, conduct regular liner inspections at least once every five years, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process. The frequency of inspections shall be specified in the operations plan and shall be based on the type of liner, expected service life of the material, and the site-specific service conditions. The jurisdictional health department shall be given sufficient notice and have the opportunity to be present during liner inspections. An inspection log or summary shall be kept at the facility or other convenient location if permanent office facilities are not on-site, for at least five years from the date of inspection. Inspection records shall be available to the jurisdictional health department upon request.

(c) Maintain daily operating records of the following:

(i) Temperatures and compost pile turnings for Type 2, Type 3 and Type 4 feedstocks;

(ii) Additional process monitoring data as prescribed in the plan of operation; and

(iii) Results of laboratory analyses for composted materials as required in (a)(viii) of this subsection. Facility inspection reports shall be maintained in the operating record. Significant deviations from the plan of operation shall be noted in the operating record. Records shall be kept for a minimum of five years and shall be available upon request by the jurisdictional health department.

(d) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report shall detail the facility's activities during the previous calendar year and shall include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Annual quantity and type of feedstocks received and compost produced, in tons;

(iv) Annual quantity of composted material sold or distributed, in tons;

(v) Annual summary of laboratory analyses of composted material; and

(vi) Any additional information required by the jurisdictional health department as a condition of the permit.

(e) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan of operation shall convey to site personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

(i) List of feedstocks to be composted, including a general description of the source of feedstocks;

(ii) A description of how wastes are to be handled on-site during the facility's active life including:

(A) Acceptance criteria that will be applied to the feedstocks;

(B) Procedures for ensuring that only the waste described will be accepted;

(C) Procedures for handling unacceptable wastes;

(D) Mass balance calculations for feedstocks and amendments to determine an acceptable mix of materials for efficient decomposition;

(E) Material flow plan describing general procedures to manage all materials on-site from incoming feedstock to finished product;

(F) A description of equipment, including equipment to add water to compost as necessary;

(G) Process monitoring plan, including temperature, moisture, and porosity;

(H) Pathogen reduction plan for facilities that accept Type 2, Type 3, and Type 4 feedstocks;

(I) Sampling and analysis plan for the final product;

(J) Nuisance odor management plan (air quality control plan);

(K) Leachate management plan, including monthly water balance; and

(L) Storm water management plan;

(iii) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspections and inspection logs;

(iv) A neighbor relations plan describing how the owner or operator will manage complaints;

(v) Safety, fire and emergency plans;

(vi) Forms for recordkeeping of daily weights or volumes of incoming feedstocks by type and finished compost product, and process monitoring results; and

(xvii) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

(5) *Composting facilities - Ground water monitoring requirements*. There are no specific ground water monitoring requirements for composting facilities subject to this chapter; however, composting facilities must meet the requirements provided under WAC 173-350-040(5).

(6) *Composting facilities - Closure requirements*. The owner or operator of a composting facility shall:

(a) Notify the jurisdictional health department sixty days in advance of closure. At closure, all solid waste, including but not limited to, raw or partially composted feedstocks, and leachate from the facility shall be removed to another facility that conforms with the applicable regulations for handling the waste.

(b) Develop, keep and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan shall include methods of removing solid waste materials from the facility.

(7) *Composting facilities - Financial assurance requirements*. There are no specific financial assurance requirements for composting facilities subject to this chapter; however, composting facilities must meet the requirements provided under WAC 173-350-040(5).

(8) *Composting facilities - Permit application contents*. The owner or operator of a composting facility shall obtain a solid waste permit from the jurisdictional health department. All applications for permits shall be submitted in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit shall contain:

(a) Engineering reports/plans and specifications that address the design standards of subsection (3) of this section;

(b) A plan of operation meeting the requirements of subsection (4) of this section; and

(c) A closure plan meeting the requirements of subsection (6) of this section.

(9) *Composting facilities - Construction records*. The owner or operator of a composting facility shall provide copies of the construction record drawings for engineered facilities at the site and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. Facilities shall not commence operation until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.

(10) *Composting facilities - Designation of composted materials.* Composted materials meeting the limits for metals in Table A and the parameters of Table B of this section, and having a stability rating of very stable, stable, or moderately unstable as determined by the analysis required in sub-

section (4)(a)(viii)(D) of this section, shall no longer be considered a solid waste and shall no longer be subject to this chapter. Composted materials that do not meet these limits are still considered solid waste and are subject to management under chapter 70.95 RCW, Solid waste management—Reduction and recycling.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-220, filed 1/10/03, effective 2/10/03.]

WAC 173-350-230 Land application. (1) *Land application - Applicability*. This section applies to solid waste that is beneficially used on the land for its agronomic value, or soil-amending capability, including land reclamation. This section does not apply to:

(a) The application of commercial fertilizers registered with the Washington state department of agriculture as provided in RCW 15.54.325, and which are applied in accordance with the standards established in RCW 15.54.800(3);

(b) Biosolids regulated under chapter 173-308 WAC, Biosolids management;

(c) Composted materials no longer considered solid waste under WAC 173-350-220(10);

(d) Dangerous waste regulated under chapter 173-303 WAC Dangerous waste regulations;

(e) Waste derived soil amendments exempted from permitting under WAC 173-350-200; and

(f) Solid waste used to improve the engineering characteristics of soil.

(2) *Land application - Location standards*. There are no specific location standards for land application of solid waste subject to this chapter; however, land application sites must meet the requirements provided under WAC 173-350-040(5).

(3) *Land application - Design standards*. There are no specific design standards for land application of solid waste subject to this chapter; however, land application sites must meet the requirements provided under WAC 173-350-040(5).

(4) *Land application - Operating standards*. The owner or operator of a land application site shall operate the site in compliance with the performance standards of WAC 173-350-040. The jurisdictional health department shall determine the need for environmental monitoring to ensure compliance with the performance standards. In addition the owner or operator shall:

(a) Operate the site to ensure that:

(i) For waste stored in piles on the site:

(A) Contamination of ground water, surface water, air and land during storage and in case of fire or flood is prevented;

(B) The potential for combustion within the pile and the potential for combustion from other sources is minimized;

(C) The duration of on-site waste storage is limited to one year, or less if the jurisdictional health department believes it is necessary to prevent the contamination of ground water, surface water, air and land; and

(D) The amount of material on site does not exceed the amount that could potentially be applied to the site during a one-year period in accordance with the plan of operations;

(ii) For storage of liquid waste or semisolid waste in surface impoundments or tanks, the requirements of WAC 173-350-330 are met;

(iii) Land application occurs at a predictable application rate determined as follows:

(A) For agricultural applications, solid waste shall be applied to the land at a rate that does not exceed the agronomic rate. The agronomic rate should be based on Washington State University cooperative extension service fertilizer guidelines or other appropriate guidance accepted by the jurisdictional health department;

(B) For the purposes of land reclamation or other soil amending activities, the application rate may be designed to achieve a soil organic matter content or other soil physical characteristic and promote long-term soil productivity, with consideration of the carbon-to-nitrogen ratio to control nutrient leaching; and

(C) For liquid wastes, the application rate shall also be based on soil permeability and infiltration rate.

(b) Maintain daily operating records of the amount and type of waste applied to the land, the crop and any additional nutrient inputs. Significant deviations from the plan of operation shall be noted in the operating record. Records shall be kept for a minimum of five years and shall be available upon request by the jurisdictional health department;

(c) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report shall detail the activities during the previous calendar year and shall include the following information:

(i) Site address or legal description;

(ii) Calendar year covered by the report;

(iii) Annual quantity and type of waste received from each source;

(iv) For each crop grown: The acreage used, the amount, type and source of each waste applied, the crop, and any additional nutrient inputs to the land, such as manure, biosolids, or commercial fertilizer;

(v) Quantity and type of any waste remaining in storage as of December 31st of the reporting year;

(vi) Any additional waste characterization information required to be obtained as a condition of the permit, and a summary report of that data;

(vii) Any environmental monitoring data required to be obtained as a condition of the permit, and a summary report of that data; and

(viii) Any additional information required by the jurisdictional health department as a condition of the permit;

(d) Develop, keep, and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

(i) A description of the types of solid wastes to be handled at the site;

(ii) A description of how wastes are to be handled on-site during the life of the site including:

(A) How wastes will be delivered to the site and meet any local agency notification requirements;

(B) A description of the process, system and equipment that will be used to apply the waste to the land that explains:

(I) How the equipment and system will be calibrated to deliver waste at the agronomic rate;

(II) Whether the waste will be allowed to remain on the surface of the land, will be tilled into the soil, or will be injected into the soil at the time of application;

(III) When the waste will be applied to the land relative to crop and livestock management practices; and

(IV) Any proposed restrictions on application related to climatic factors including typical precipitation, twenty-five-year storm events as defined in WAC 173-350-100, temperature, and wind, or site conditions including frozen soils and seasonal high ground water;

(C) A description of how the waste will be managed at all points during storage and application to control attraction to disease vectors and to mitigate nuisance odor impacts;

(iii) A spill response plan including the names and phone numbers of all contacts to be notified in the event of a spill and how the spill will be cleaned up;

(iv) If the seasonal high ground water is three feet or less below the surface, a management plan describing how ground water will be protected;

(v) A waste monitoring plan providing analytical results representative of the waste being applied to the land, over time, taking into account the rate of production of the waste, timing of delivery, and storage;

(vi) The forms used to record volumes, weights and waste application data;

(vii) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

(5) *Land application - Ground water monitoring requirements*. There are no specific ground water monitoring requirements for land application sites subject to this chapter; however, land application sites must meet the requirements provided under WAC 173-350-040(5).

(6) *Land application - Closure requirements*. The owner or operator of all land application sites shall notify the jurisdictional health department sixty days in advance of closure. All land application sites shall be closed by applying all materials in storage in accordance with the permit, or by removing those materials to a facility that conforms to the applicable regulations for handling the waste.

(7) *Land application - Financial assurance requirements*. There are no specific financial assurance requirements for land application sites subject to this chapter; however, land application sites must meet the requirements provided under WAC 173-350-040(5).

(8) *Land application - Permit application contents*.

(a) The owner or operator of land application sites subject to this section shall obtain a solid waste permit from the jurisdictional health department. All applications for permits shall be submitted in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit shall contain:

(i) Contact information, including name, contact person, mailing address, phone, fax, e-mail for:

(A) Any person who generates waste that will be applied to the site;

(B) The person who is applying for a permit (the permit holder);

(C) The person who prepares the permit application; and

(D) The person who owns the site where the waste will be applied.

(ii) Statement of intended use. The permit application shall contain a clear explanation of the benefit to be obtained from land application of the material. Avoidance of disposal is not adequate justification for land application of solid waste.

(iii) An analysis of the waste which includes:

(A) A description of the material to be applied to the land;

(B) A description of the processes by which the material is generated and treated including all processed feedstocks;

(C) Any pseudonyms or trade names for the material;

(D) A discussion of the potential for the material to generate nuisance odors or to attract disease vectors, including any complaints regarding nuisance odors associated with this material;

(E) An analysis of pollutant concentrations of the following reported on a dry weight basis:

(I) Total arsenic;

(II) Total barium;

(III) Total cadmium;

(IV) Total chromium;

(V) Total copper;

(VI) Total lead;

(VII) Total mercury;

(VIII) Total molybdenum;

(IX) Total nickel;

(X) Total selenium;

(XI) Total zinc.

(F) An analysis of nutrients at a minimum to include total Kjeldahl nitrogen, total nitrate-nitrogen, total ammonia- and ammonium-nitrogen, total phosphorus, and extractable potassium, reported on a dry weight basis;

(G) An analysis of physical/chemical parameters to include at a minimum: Total solids, total volatile solids, pH, electrical conductivity, total organic carbon;

(H) A discussion of any pathogens known or suspected to be associated with this material, including those which can cause disease in plants, animals, or humans;

(I) The concentration of fecal coliform bacteria expressed as CFU or MPN per gram of dry solid material; and

(J) Any additional analysis required by the jurisdictional health department. The jurisdictional health department may reduce the analytical requirements of this section. Methods of analysis are to be determined by the jurisdictional health department.

(iv) A comprehensive site characterization including:

(A) A description of current practices and a brief description of past practices on the application site, including application of wastes, soil amendments, manures, biosolids, liming agents, and other fertilization practices, livestock usage, irrigation practices, and crop history. Also indicate whether any management plan has been prepared for the site such as a farm, forest, or nutrient management plan. Discuss any potential changes to management practices at the site;

(B) A description of the climate at the application site including typical precipitation, precipitation of a twenty-five-

year storm, as defined in WAC 173-350-100, temperatures, and seasonal variations;

(C) A brief discussion of the potential for run-on and runoff, and typical depths to seasonal high ground water;

(D) An analysis of soil nutrients including residual nitrate in the upper two feet of soil in one foot increments;

(E) A site map showing property boundaries and ownership of adjacent properties with the application areas clearly shown, and with the latitude and longitude of the approximate center of each land application site;

(F) A topographic relief map of the site extending one quarter beyond the site boundaries at a scale of 1:24,000 or other scale if specified by the jurisdictional health department;

(G) Show the following information on either of the maps provided or on additional maps if needed:

(I) Location of the site by street address, if applicable;

(II) The zoning classification of the site;

(III) The means of access to the site;

(IV) The size of the site in acres, and if applicable, the size of individual fields, units, and application areas;

(V) The location and size of any areas which will be used to store the waste;

(VI) Adjacent properties, uses, and their zoning classifications;

(VII) Delineation of wetlands on the site;

(VIII) Any portion of the site that falls within a wellhead protection area;

(IX) Any seasonal surface water bodies located on the site or perennial surface water bodies within one-quarter mile of the site;

(X) The location of all wells within one-quarter mile of the boundary of the application area which are listed in public records or otherwise known, whether for domestic, irrigation, or other purposes;

(XI) Any setback or buffer to surface water, property boundaries, or other feature, if proposed;

(XII) The location of any critical areas or habitat identified under the Endangered Species Act, local growth management plans, habitat conservation plans, conservation reserve program, or local shoreline master program;

(XIII) A copy of the Natural Resources Conservation Service soil survey map from the most recent edition of the soil survey that includes the distribution of soil types with an overlay of the site boundaries; and

(XIV) A description of the soil type(s), textural classes, and soil depths present on the site as determined by the most recent edition of the Natural Resources Conservation Service soil survey or from actual field measurements.

(v) A plan of operation meeting the requirements of subsection (4) of this section.

(b) Two or more areas of land under the same ownership or operational control which are not contiguous may be considered as one site for the purposes of permitting, if in the opinion of the jurisdictional health department the areas are sufficiently proximate and management practices are sufficiently similar that viewing them as one proposal would expedite the permit process without compromising the public interest. A jurisdictional health department may also require separate permits for a contiguous area of land if it finds that the character of a proposed site or management practices across the site are sufficiently different that the permit process and public interest would be best served by a more focused approach.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-230, filed 1/10/03, effective 2/10/03.]

WAC 173-350-240 Energy recovery and incineration facilities. (1) *Energy recovery and incineration facilities - Applicability*.

(a) These standards apply to all facilities designed to burn more than twelve tons of solid waste or refuse-derived fuel per day.

(b) These standards do not apply to facilities that burn gases recovered at a landfill or solid waste digesters.

(c) In accordance with RCW 70.95.305, the combustion of wood waste, wood derived fuel, and wastewater treatment sludge generated from the manufacturing of wood pulp or paper, for the purpose of energy recovery is subject solely to the requirements of (d)(i) through (iv) of this subsection and is exempt from solid waste handling permitting. An owner or operator that does not comply with the terms and conditions of (d)(i) through (iv) of this subsection is required to obtain a permit from the jurisdictional health department and shall comply with all other applicable requirements of this chapter. In addition, violations of the terms and conditions of (d)(i) through (iv) of this subsection may be subject to the penalty provisions of RCW 70.95.315.

(d) Owners and operators of all categorically exempt energy recovery facilities shall:

(i) Comply with the performance standards of WAC 173-350-040;

(ii) Ensure that only fuels approved in writing by the agency with jurisdiction over the facility for air quality regulation are combusted;

(iii) Allow department and jurisdictional health department representatives to inspect the facility at reasonable times for the purpose of determining compliance with this chapter; and

(iv) Ensure that wastewater treatment sludge generated from the manufacturing of wood pulp or paper is combusted only in energy recovery units at the facility from which it originates.

(2) *Energy recovery and incineration facilities - Location standards*. There are no specific location standards for energy recovery or incineration facilities subject to this chapter; however, energy recovery and incineration facilities must meet the requirements provided under WAC 173-350-040(5).

(3) *Energy recovery and incineration facilities - Design standards*. There are no specific design standards for energy recovery or incineration facilities subject to this chapter; however, energy recovery and incineration facilities must meet the requirements provided under WAC 173-350-040(5).

(4) *Energy recovery and incineration facilities - Operating standards*. The owner or operator of an energy recovery or incineration facility shall:

(a) Operate the facility to:

(i) Confine solid wastes prior to and after processing to specifically designed piles, surface impoundments, tanks or containers meeting the applicable standards of this chapter. Storage of wastes other than in the specifically designed storage compartments is prohibited. Equipment and space shall

be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as required to maintain the plant in a sanitary and clean condition;

(ii) Handle solid wastes, including combustion residues, in a manner that complies with this chapter;

(iii) Provide recyclable material collection at all facilities that accept municipal solid waste from the general public, self-haul residential, or commercial waste generators; and

(iv) Ensure that dangerous waste is not disposed, treated, stored or otherwise handled, unless the requirements of chapter 173-303 WAC, Dangerous waste regulations, are met.

(b) Inspect the facility to prevent malfunctions and deterioration, operator errors and discharges that may lead to the release of wastes to the environment or cause a threat to human health. The owner or operator shall conduct these inspections as needed, but at least weekly, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process.

(c) Maintain daily operating records on the weights and types of wastes received, and number of vehicles delivering waste to the facility. Facility inspection reports shall be maintained in the operating record. Significant deviations from the plan of operation shall also be noted on the operating record. Records shall be maintained for a minimum of five years and shall be available upon request by the jurisdictional health department.

(d) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st of each year on forms supplied by the department. The annual report shall detail the facility's activities during the previous calendar year and shall include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Annual quantity of each type of solid waste received and incinerated, in tons if available;

(iv) Annual quantity, type and destination of solid waste bypassed, in tons;

(v) Annual quantity of ash disposed and disposal location, in tons; and

(vi) Any additional information required by the jurisdictional health department as a condition of the permit.

(e) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

(i) A description of the types of solid wastes to be handled at the facility;

(ii) How solid wastes are to be handled on-site during the facility's active life, including alternative storage, and/or disposal plans for all situations that would result in overfilling of the storage facility;

(iii) A description of how equipment, structures and other systems, including leachate collection and gas collection equipment, are to be inspected and maintained, including the frequency of inspection and inspection logs;

(iv) Safety, fire and emergency plans including:

(A) Actions to take if there is a fire or explosion;

(B) Actions to take if leaks are detected;

(C) Remedial action programs to be implemented in case of a release of hazardous substances to the environment;

(D) Actions to take for other releases (e.g., failure of run-off containment system);

(v) Forms used to record volumes or weights;

(vi) Other such details to demonstrate that the facility will be operated in accordance with this chapter and as required by the jurisdictional health department.

(5) *Energy recovery and incineration facilities - Ground water monitoring requirements*. There are no specific ground water monitoring requirements for energy recovery and incineration facilities subject to this chapter; however, energy recovery and incineration facilities must meet the requirements provided under WAC 173-350-040(5).

(6) *Energy recovery and incineration facilities - Closure requirements*. The owner or operator of an energy recovery or incineration facility shall:

(a) Notify the jurisdictional health department one hundred eighty days in advance of closure. At the time of closure all solid waste shall be removed to a facility that conforms with the applicable regulations for handling the waste.

(b) Develop, keep and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan shall include the methods of removing waste.

(7) *Energy recovery and incineration facilities - Environmental impact statement required*. In accordance with RCW 70.95.700, no solid waste energy recovery or incineration facility shall be operated prior to the completion of an environmental impact statement containing the considerations required under RCW 43.21C.030 (2)(c) and prepared pursuant to the procedures of chapter 43.21C RCW, State Environmental Policy Act.

(8) *Energy recovery and incineration facilities - Financial assurance requirements*. There are no specific financial assurance requirements for energy recovery facilities and incineration facilities subject to this chapter; however, energy recovery and incineration facilities must meet the requirements provided under WAC 173-350-040(5).

(9) *Energy recovery and incineration facilities - Permit application contents*. The owner or operator of an energy recovery or incineration facility shall obtain a solid waste permit from the jurisdictional health department. All applications for permits shall be in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each permit application shall contain:

(a) Preliminary engineering reports/plans and specifications that address:

(i) The design of the storage and handling facilities on-site for incoming waste as well as fly ash, bottom ash and any other wastes produced by air or water pollution controls; and

(ii) The design of the incinerator or thermal treater, including charging or feeding systems, combustion air systems, combustion or reaction chambers, including heat recovery systems, ash handling systems, and air pollution and water pollution control systems. Instrumentation and monitoring systems design shall also be included.

(b) A plan of operation that addresses the requirements of subsection (4) of this section; and

(c) A closure plan meeting the requirements of subsection (6) of this section.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-240, filed 1/10/03, effective 2/10/03.]

WAC 173-350-300 On-site storage, collection and transportation standards. (1) *On-site storage, collection and transportation standards - Applicability*. This section is applicable to the temporary storage of solid waste in a container at a premises, business establishment, or industry and the collecting and transporting of the solid waste.

(2) *On-site storage*.

(a) The owner or occupant of any premises, business establishment, or industry shall be responsible for the safe and sanitary storage of all containerized solid wastes accumulated at those premises.

(b) The owner, operator, or occupant of any premises, business establishment, or industry shall store solid wastes in containers that meet the following requirements:

(i) Disposable containers shall be sufficiently strong to allow lifting without breakage and shall be thirty-two gallons in capacity or less where manual handling is practiced;

(ii) Reusable containers, except for detachable containers, shall be:

(A) Rigid and durable;

(B) Corrosion resistant;

(C) Nonabsorbent and water tight;

(D) Rodent-proof and easily cleanable;

(E) Equipped with a close-fitting cover;

(F) Suitable for handling with no sharp edges or other hazardous conditions; and

(G) Equal to or less than thirty-two gallons in volume where manual handling is practiced;

(iii) Detachable containers shall be durable, corrosion-resistant, nonabsorbent, nonleaking and have either a solid cover or screen cover to prevent littering.

(3) *Collection and transportation standards*.

(a) All persons collecting or transporting solid waste shall avoid littering at the loading point, during transport and during proper unloading of the solid waste.

(b) Vehicles or containers used for the collection and transportation of solid waste shall be tightly covered or screened where littering may occur, durable and of easily cleanable construction. Where garbage is being collected or transported, containers shall be cleaned as necessary to prevent nuisance odors and insect breeding and shall be maintained in good repair.

(c) Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such manner that the containers will not fail, and the contents will not spill or leak. Where such spillage or leakage does occur the waste shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

(d) All persons commercially collecting or transporting solid waste shall inspect collection and transportation vehicles at least monthly. Inspection records shall be maintained at the facility normally used to park such vehicles or such other location that maintenance records are kept. Such records shall be kept for a period of at least two years, and be made available upon the request of the jurisdictional health department.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-300, filed 1/10/03, effective 2/10/03.]

WAC 173-350-310 Intermediate solid waste handling facilities. (1) *Intermediate solid waste handling facilities - Applicability*. This section is applicable to any facility engaged in solid waste handling that provides intermediate storage and/or processing prior to transport for final disposal. This includes, but is not limited to, material recovery facilities, transfer stations, baling and compaction sites, and drop box facilities. This section is not applicable to:

(a) Storage, treatment or recycling of solid waste in piles which are subject to WAC 173-350-320;

(b) Storage or recycling of solid waste in surface impoundments which are subject to WAC 173-350-330;

(c) Composting facilities subject to WAC 173-350-220;

(d) Recycling which is subject to WAC 173-350-210;

(e) Storage of waste tires which is subject to WAC 173-350-350;

(f) Storage of moderate risk waste prior to recycling which is subject to WAC 173-350-360;

(g) Energy recovery or incineration of solid waste which is subject to WAC 173-350-240; and

(h) Drop boxes placed at the point of waste generation which is subject to WAC 173-350-300.

(2) *Materials recovery facilities - Permit exemption and notification.*

(a) In accordance with RCW 70.95.305, material recovery facilities managed in accordance with the terms and conditions of (b) of this subsection are exempt from solid waste handling permitting. An owner or operator that does not comply with the terms and conditions of (b) of this subsection is required to obtain a permit from the jurisdictional health department as an intermediate solid waste handling facility and shall comply with the requirements of WAC 173-350-310. In addition, violations of the terms and conditions of (b) of this subsection may be subject to the penalty provisions of RCW 70.95.315.

(b) Material recovery facilities shall be managed according to the following terms and conditions to maintain their exempt status:

(i) Meet the performance standards of WAC 173-350-040;

(ii) Accept only source separated recyclable materials and dispose of an incidental and accidental residual not to exceed five percent of the total waste received, by weight per year, or ten percent by weight per load;

(iii) Allow inspections by the department or jurisdictional health department at reasonable times;

(iv) Notify the department and jurisdictional health department, thirty days prior to operation, or ninety days from the effective date of the rule for existing facilities, of the intent to operate a material recovery facility in accordance with this section. Notification shall be in writing, and shall include:

(A) Contact information for facility owner or operator;

(B) A general description of the facility; and

(C) A description of the types of recyclable materials managed at the facility;

(v) Prepare and submit an annual report to the department and the jurisdictional health department by April 1st on forms supplied by the department. The annual report shall detail facility activities during the previous calendar year and shall include the following information:

(A) Name and address of the facility;

(B) Calendar year covered by the report;

(C) Annual quantities and types of waste received, recycled and disposed, in tons, for purposes of determining progress towards achieving the goals of waste reduction, waste recycling, and treatment in accordance with RCW 70.95.010(4); and

(D) Any additional information required by written notification of the department.

(3) *Intermediate solid waste handling facilities - Location standards*. There are no specific location standards for intermediate solid waste handling facilities subject to this chapter; however, intermediate solid waste handling facilities must meet the requirements provided under WAC 173-350-040(5).

(4) *Intermediate solid waste handling facilities - Design standards*. The owner or operator of all intermediate solid waste handling facilities shall prepare engineering reports/plans and specifications to address the following design standards:

(a) Material recovery facilities, transfer stations, baling and compaction sites shall:

(i) Control public access, and prevent unauthorized vehicular traffic and illegal dumping of waste;

(ii) Be sturdy and constructed of easily cleanable materials;

(iii) Provide effective means to control rodents, insects, birds and other vectors;

(iv) Provide effective means to control litter;

(v) Provide protection of the tipping floor from wind, rain or snow;

(vi) Provide pollution control measures to protect surface and ground waters, including runoff collection and discharge designed to handle a twenty-five-year storm as defined in WAC 173-350-100, and equipment cleaning and washdown water;

(vii) Provide pollution control measures to protect air quality; and

(viii) Provide all-weather surfaces for vehicular traffic.

(b) Drop boxes shall be constructed of durable watertight materials with a lid or screen on top that prevents the loss of materials during transport and access by rats and other vectors, and control litter.

(5) *Intermediate solid waste handling facilities - Operating standards*. The owner or operator of an intermediate solid waste handling facility shall:

(a) Operate the facility to:

(i) For material recovery facilities transfer stations, bailing and compaction sites:

(A) Be protective of human health and the environment;

(B) Prohibit the disposal of dangerous waste and other unacceptable waste;

(C) Control rodents, insects, and other vectors;

(D) Control litter;

(E) Prohibit scavenging;

(F) Prohibit open burning;

(G) Control dust;

(H) For putrescible waste, control nuisance odors;

(I) Provide attendant(s) on-site during hours of operation;

(J) Have a sign that identifies the facility and shows at least the name of the site, and, if applicable, hours during which the site is open for public use, what materials the facility does not accept and other necessary information posted at the site entrance; and

(K) Have communication capabilities to immediately summon fire, police, or emergency service personnel in the event of an emergency.

(ii) For drop box facilities:

(A) Be serviced as often as necessary to ensure adequate dumping capacity at all times. Storage of waste outside the drop boxes is prohibited;

(B) Be protective of human health and the environment;

(C) Control rodents, insects, and other vectors;

(D) Control litter;

(E) Prohibit scavenging;

(F) Control dust;

(G) For putrescible waste, control nuisance odors; and

(H) Have a sign that identifies the facility and shows at least the name of the site, and, if applicable, hours during which the site is open for public use, what materials the facility does not accept and other necessary information posted at the site entrance;

(b) Inspect and maintain the facility to prevent deterioration or the release of wastes to the environment that could pose a threat to human health. Inspection shall be as needed, but at least weekly, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process;

(c) Maintain daily operating records on the weights and types of wastes received or removed from the facility. Facility inspection reports shall be maintained in the operating record. Significant deviations from the plan of operation shall be noted in the operating record. Records shall be kept for a minimum of five years and shall be available upon request by the jurisdictional health department;

(d) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report shall detail the facility's activities during the previous calendar year and shall include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Annual quantity of each type of solid waste handled by the facility, in tons;

(iv) Destination of waste transported from the facility for processing or disposal; and

(v) Any additional information required by the jurisdictional health department as a condition of the permit.

(e) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If

necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

(i) A description of the types of solid wastes to be handled at the facility;

(ii) A description of how solid wastes are to be handled on-site during the facility's life, including maximum facility capacity, methods of adding or removing waste from the facility and equipment used;

(iii) A description of the procedures used to ensure that dangerous waste and other unacceptable waste are not accepted at the facility;

(iv) Safety and emergency plans;

(v) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspection and inspection logs;

(vi) For putrescible wastes, an odor management plan describing the actions to be taken to control nuisance odors;

(vii) The forms used to record volumes or weights; and

(viii) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

(6) *Intermediate solid waste handling facilities - Ground water monitoring requirements*. There are no specific ground water monitoring requirements for intermediate solid waste handling facilities subject to this chapter; however, intermediate solid waste handling facilities must meet the requirements provided under WAC 173-350-040(5).

(7) *Intermediate solid waste handling facilities - Closure requirements*. The owner or operator of an intermediate solid waste handling facility shall:

(a) Notify the jurisdictional health department one hundred eighty days in advance of closure. All waste shall be removed to a facility that conforms with the applicable regulations for handling the waste.

(b) Develop, keep and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan shall include the methods of removing waste.

(8) *Intermediate solid waste handling facilities - Financial assurance*. There are no specific financial assurance requirements for intermediate solid waste handling facilities subject to this chapter; however, intermediate solid waste handling facilities must meet the requirements provided under WAC 173-350-040(5).

(9) *Intermediate solid waste handling facilities - Permit application contents*. The owner or operator of an intermediate solid waste handling facility shall obtain a solid waste permit from the jurisdictional health department. All applications for permits shall be submitted in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit shall contain:

(a) For material recovery facilities, transfer stations, baling and compaction sites:

(i) Engineering reports/plans and specifications that address the design standards of subsection (4)(a) of this section;

(ii) A plan of operation meeting the applicable requirements of subsection (5) of this section;

(iii) A closure plan meeting the requirements of subsection (7) of this section;

(b) For drop boxes:

(i) Engineering reports/plans and specifications that address the design standards of subsection (4)(b) of this section;

(ii) A plan of operation meeting the applicable requirements of subsection (5) of this section; and

(iii) A closure plan meeting the requirements of subsection (7) of this section.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-310, filed 1/10/03, effective 2/10/03.]

WAC 173-350-320 Piles used for storage or treatment. (1) *Piles used for storage or treatment - Applicability*.

(a) This section is applicable to solid waste stored or treated in piles where putrescible waste piles that do not contain municipal solid waste are in place for more than three weeks, nonputrescible waste and contaminated soils and dredged material piles are in place for more than three months and municipal solid waste piles are in place for more than three days. This section is not applicable to:

(i) Waste piles located at composting facilities subject to WAC 173-350-220 that are an integral part of the facility's operation;

(ii) Piles of nonputrescible waste stored in enclosed buildings provided that no liquids or liquid waste are added to the pile; and

(iii) Piles of waste tires or used tires subject to WAC 173-350-350.

(b) In accordance with RCW 70.95.305, storage piles of wood waste used for fuel or as a raw material, wood derived fuel, and agricultural wastes on farms, are subject solely to the requirements of (c)(i) through (iii) of this subsection and are exempt from solid waste handling permitting. An owner or operator that does not comply with the terms and conditions of (c)(i) through (iii) of this subsection is required to obtain a permit from the jurisdictional health department and shall comply with all other applicable requirements of this chapter. In addition, violations of the terms and conditions of (c)(i) through (iii) of this subsection may be subject to the penalty provisions of RCW 70.95.315.

(c) Owners and operators of all storage piles that are categorically exempt from solid waste handling permitting in accordance with (b) of this subsection shall:

(i) Ensure that at least fifty percent of the material stored in the pile is used within one year and all material is used within three years;

(ii) Comply with the performance standards of WAC 173-350-040; and

(iii) Allow department and jurisdictional health department representatives to inspect the waste pile at reasonable times for the purpose of determining compliance with this chapter.

(d) In accordance with RCW 70.95.305, the storage of inert waste in piles is subject solely to the requirements of (e)(i) through (vi) of this subsection and are exempt from solid waste handling permitting. The storage of inert waste in piles at a facility with a total volume of two hundred fifty cubic yards or less is subject solely to the requirements of (e)(iv) of this subsection. An owner or operator that does not

comply with the terms and conditions of (e)(i) through (vi) of this subsection is required to obtain a permit from the jurisdictional health department and shall comply with all other applicable requirements of this chapter. In addition, violations of the terms and conditions of (e)(i) through (vi) may be subject to the penalty provisions of RCW 70.95.315.

(e) Owners and operators of all storage piles that are categorically exempt from solid waste handling permitting in accordance with (d) of this subsection shall:

(i) Implement and abide by a procedure that is capable of detecting and preventing noninert wastes from being accepted or mixed with inert waste;

(ii) Ensure that at least fifty percent of the material stored in the pile is used within one year and all the material is used within three years;

(iii) Control public access and unauthorized vehicular traffic to prevent illegal dumping of wastes;

(iv) Comply with the performance standards of WAC 173-350-040;

(v) Allow department and jurisdictional health department representatives to inspect the waste pile at reasonable times for the purpose of determining compliance with this chapter; and

(vi) Notify the department and jurisdictional health department thirty days prior to commencing operations of the intent to store inert waste in accordance with this section. Notification shall be in writing, and shall include:

(A) Contact information for the owner or operator;

(B) A general description and location of the facility; and

(C) A description of the inert waste handled at the facility.

(2) *Piles used for storage or treatment - Location standards*. There are no specific location standards for piles subject to this chapter; however, waste piles must meet the requirements provided under WAC 173-350-040(5).

(3) *Piles used for storage or treatment - Design standards*.

(a) The owner or operator of piles used for storage or treatment shall prepare engineering reports/plans and specifications, including a construction quality assurance plan, to address the design standards of this subsection. The maximum waste capacity, elevation and boundaries of the waste pile shall be provided. Piles shall be designed and constructed to:

(i) Control public access;

(ii) Comply with the uniform fire code as implemented through the local fire control agency;

(iii) Minimize vector harborage to the extent practicable; and

(iv) Provide all-weather approach roads and exits.

(b) In addition to the requirements of (a) of this subsection, the owner or operator of piles of putrescible waste, contaminated soils or dredged material or waste determined by the jurisdictional health department to be likely to produce leachate posing a threat to human health or the environment shall prepare engineering reports/plans and specifications of the surface on which the pile(s) will be placed including an analysis of the surface under the stresses expected during operations, and the design of the surface water management systems including run-on prevention and runoff conveyance, storage, and treatment. The piles shall be designed and constructed to:

(i) Place waste on a sealed surface, such as concrete or asphaltic concrete, to prevent soil and ground water contamination. The surface shall be durable enough to withstand material handling practices. The jurisdictional health department may approve other types of surfaces, such as engineered soil, if the applicant can demonstrate that the proposed surface will prevent soil and ground water contamination; and

(ii) Control run-on and runoff from a twenty-five-year storm, as defined in WAC 173-350-100.

(4) *Piles used for storage or treatment - Operating standards*. The owner or operator of piles used for storage or treatment shall:

(a) Operate the facility to:

(i) Control fugitive dust;

(ii) Control access to the pile;

(iii) Ensure that nonpermitted waste is not accepted at the facility;

(iv) Control vector harborage and implement vector control as necessary;

(v) Ensure that waste piles capable of attracting birds do not pose an aircraft safety hazard; and

(vi) For piles of putrescible waste and contaminated soils or dredged material, control nuisance odors.

(b) Inspect and maintain the facility to prevent malfunctions, deterioration, operator errors and discharges that may cause or lead to the release of wastes to the environment or a threat to human health. Inspections shall include the engineered surface on which the piles are placed, and the leachate and stormwater control systems. Inspections shall be as needed, but at least weekly, to ensure it is meeting the operational standards, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process;

(c) Maintain daily operating records on the weights and the types of waste received or removed from the facility. Facility inspection reports shall be maintained in the operating record. Significant deviations from the plan of operation shall be noted in the operating record. Records shall be kept for a minimum of five years and shall be available upon request by the jurisdictional health department;

(d) Shall prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report shall detail the facility's activities during the previous calendar year and shall include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Annual quantity and type of solid waste handled by the facility, including amounts received, amounts removed and the amount of waste remaining at the facility at year's end, in tons; and

(iv) Any additional information required by the jurisdictional health department as a condition of the permit.

(e) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to the site operating personnel that concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If

necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

(i) A description of the types of solid waste to be handled at the facility;

(ii) A description of how solid wastes are to be handled on-site during the facility's life including:

(A) The maximum amount of waste to be stored or treated in pile(s) at the facility;

(B) Methods of adding and removing waste from the pile and equipment used;

(iii) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspection and inspection logs;

(iv) Safety and emergency plans;

(v) Forms to record weights or volumes; and

(vi) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

(f) Operate the facility in conformance with the following operating standards when storing or treating contaminated soils or dredged material:

(i) Ensure that all soils and dredged material are sufficiently characterized:

(A) Prior to storage or treatment so that contaminants not identified, or at concentrations greater than those provided in the approved plan of operation are not accepted or handled at the facility; and

(B) Prior to removal to an off-site location so that all soils and dredged material that are not clean soils or dredged material are delivered to a facility that meets the requirements of chapter 70.95 RCW, Solid waste management—Reduction and recycling;

(ii) In addition to the daily operating records in (c) of this subsection, a record of the source of contaminated soils and dredged material received at the facility, contaminants and concentrations contained, and any documentation used to characterize soils and dredged material. Records shall be maintained of end uses, including the location of final placement, for any soils or dredged material removed from the facility that contain residual contaminants;

(iii) In addition to the elements in (e) of this subsection, the plan of operation shall include:

(A) A description of contaminants and concentrations in soils and dredged material that will be handled at the facility;

(B) A sampling and analysis plan and other procedures used to characterize soils and dredged material; and

(C) Forms used to record the source of contaminated soils or dredged material, contaminant concentrations and other documentation used to characterize soils and dredged material, and end uses and the location of final placement for any soils or dredged material removed from the facility that contain residual contaminants;

(iv) Treatment of contaminated soils and dredged materials shall be performed using a process that reduces or eliminates contaminants and harmful characteristics. Contaminated soils and dredged materials shall not be diluted to meet treatment goals or as a substitute for disposal, except for incidental dilution of minor contaminants.

(5) *Piles used for storage or treatment - Ground water monitoring requirements*. There are no specific ground water monitoring requirements for piles used for storage and treatment subject to this chapter; however, waste piles must meet the requirements provided under WAC 173-350-040(5).

(6) *Piles used for storage or treatment - Closure requirements*. The owner or operator of piles used for storage or treatment shall:

(a) Notify the jurisdictional health department sixty days in advance of closure. All waste shall be removed from the pile at closure to a facility that conforms with the applicable regulations for handling the waste.

(b) Develop, keep and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. As a minimum, the closure plan shall include the methods of removing waste.

(7) *Piles used for storage or treatment - Financial assurance requirements*. There are no specific financial assurance requirements for piles used for storage or treatment subject to this regulation chapter; however, waste piles must meet the requirements provided under WAC 173-350-040(5).

(8) *Piles used for storage or treatment - Permit application contents*. The owner or operator of piles used for storage or treatment shall obtain a permit from the jurisdictional health department.

All applications for permits shall be submitted in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit shall contain:

(a) The design of fire control features;

(b) Engineering reports/plans and specifications that address the design standards of subsection (3) of this section;

(c) A plan of operation meeting the requirements of subsection (4) of this section; and

(d) A closure plan meeting the requirements of subsection (6) of this section.

(9) *Piles used for storage or treatment - Construction records*. The owner or operator of piles used for storage or treatment shall provide copies of the construction record drawings for engineered facilities at the site and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. Facilities shall not commence operation until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-320, filed 1/10/03, effective 2/10/03.]

WAC 173-350-330 Surface impoundments and tanks. (1) *Surface impoundments and tanks - Applicability*.

(a) These standards are applicable to:

(i) Surface impoundments holding solid waste associated with solid waste facilities including, but not limited to, leachate lagoons associated with landfills permitted under this chapter and chapter 173-351 WAC, Criteria for municipal solid waste landfills, and surface impoundments associated with recycling, and piles used for storage or treatment;

(ii) Above or below ground tanks with a capacity greater than one thousand gallons holding solid waste associated with solid waste handling facilities used to store or treat liq-

uid or semisolid wastes or leachate associated with solid waste handling facilities.

(b) These standards are not applicable to:

(i) Surface impoundments or tanks whose facilities are regulated under local, state or federal water pollution control permits;

(ii) Leachate holding ponds at compost facilities regulated under WAC 173-350-220;

(iii) Septic tanks receiving only domestic sewage from facilities at the site;

(iv) Agricultural waste managed according to a farm management plan written in conjunction with the local conservation district;

(v) Underground storage tanks subject to chapter 173-360 WAC, Underground storage tanks; and

(vi) Tanks used to store moderate risk waste subject to WAC 173-350-360.

(2) *Surface impoundments and tanks - Location standards*.

Surface impoundments and tanks shall not be located in unstable areas unless the owner or operator demonstrates that engineering measures have been incorporated in the facility's design to ensure that the integrity of the liners, monitoring system and structural components will not be disrupted. The owner or operator shall place the demonstration in the application for a permit.

(3) *Surface impoundments and tanks - Design standards*.

(a) The owner or operator of a surface impoundment shall prepare engineering reports/plans and specifications, including a construction quality assurance plan, to address the design standards of this subsection. In determining pond capacity, volume calculations shall be based on the facility design, monthly water balance, and precipitation data. All surface impoundments shall be designed and constructed to meet the following requirements:

(i) Have a liner consisting of a minimum 30-mil thickness geomembrane overlying a structurally stable foundation to support the liners and the contents of the impoundment. (HDPE geomembranes used as primary liners or leak detection liners shall be at least 60-mil thick to allow for proper welding.) The jurisdictional health department may approve the use of alternative designs if the owner or operator can demonstrate during the permitting process that the proposed design will prevent migration of solid waste constituents or leachate into the ground or surface waters at least as effectively as the liners described in this subsection.

(ii) Have a ground water monitoring system which complies with the requirements of WAC 173-350-500 or a leak detection layer. If a leak detection layer is used, it shall consist of an appropriate drainage layer underlain by a geomembrane of at least 30-mil thickness.

(iii) Have embankments and slopes designed to maintain structural integrity under conditions of a leaking liner and capable of withstanding erosion from wave action, overfilling, or precipitation.

(iv) Have freeboard equal to or greater than eighteen inches to provide protection against wave action, overfilling, or precipitation. During the permitting process the jurisdictional health department may reduce the freeboard requirement provided that other specified engineering controls are in place which prevent overtopping.

(v) When constructed with a single geomembrane liner, the liner shall be tested using an electrical leak location evaluation capable of detecting a hole 3 millimeters in its longest dimension or other equivalent postconstruction test method prior to being placed in service. Results of the test shall be submitted with the construction record drawings.

(vi) Surface impoundments that have the potential to impound more than ten-acre feet (three million two hundred fifty-nine thousand gallons) of liquid measured from the top of the embankment and which would be released by a failure of the containment embankment shall be reviewed and approved by the dam safety section of the department.

(vii) No surface impoundment liner shall be constructed such that the bottom of the lowest component is less than five feet (one and one-half meters) above the seasonal high level of ground water unless the owner or operator can demonstrate during the permitting procedure that the proposed design will not be affected by contact with ground water. All surface impoundment liners shall be constructed such that the bottom of the lowest component is above the seasonal high level of ground water. For the purpose of this section, ground water includes any water-bearing unit which is horizontally and vertically extensive, hydraulically recharged, and volumetrically significant.

(b) The owner or operator of a tank used to store or treat liquid or semisolid wastes meeting the definition of solid waste or leachate, shall prepare engineering reports/plans and specifications, including a construction quality assurance plan, to address the following design standards:

(i) Tanks and ancillary equipment shall be tested for tightness using a method acceptable to the jurisdictional health department prior to being covered, enclosed or placed in use. If a tank is found not to be tight, all repairs necessary to remedy the leak(s) in the system shall be performed and verified to the satisfaction of the jurisdictional health department prior to the tank being covered or placed in use.

(ii) Below ground tanks and other tanks where all or portions of the tank are not readily visible shall be designed to resist buoyant forces in areas of high ground water and shall either be:

(A) Retested for tightness at a minimum of once every two years; or

(B) Equipped with a leak detection system capable of detecting a release from the tank;

(iii) For tanks or components in which the external shell of a metal tank or any metal component will be in contact with the soil or water, a determination shall be made by a corrosion expert of the type and degree of external corrosion protection that is needed to ensure the integrity of the tank during its operating life. This determination shall be included with design information submitted with the permit application;

(iv) Above ground tanks shall be equipped with secondary containment constructed of, or lined with, materials compatible with the waste being stored and capable of containing the volume of the largest tank within its boundary plus the precipitation from the twenty-five-year storm event as defined in WAC 173-350-100;

(v) Areas used to load or unload tanks shall be designed to contain spills, drippage and accidental releases during loading and unloading of vessels;

(vi) Tanks and piping shall be protected from impact by vehicles or equipment through use of curbing, grade separation, bollards or other appropriate means;

(vii) Tanks shall be structurally suited for the proposed use; and

(viii) Tanks, valves, fittings and ancillary piping shall be protected from failure caused by freezing.

(4) *Surface impoundments and tanks - Operating standards*. The owner or operator of a surface impoundment or tank shall:

(a) Operate the facility to:

(i) Prevent overfilling of surface impoundments or tanks and maintain required freeboard;

(ii) Control access to the site;

(iii) Control nuisance odors for wastes or liquids with the potential to create nuisance odors; and

(iv) Control birds at impoundments storing wastes capable of attracting birds.

(b) Inspect surface impoundments, tanks and associated piping, pumps and hoses as needed, but at least weekly, to ensure they are meeting the operational standards, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process. In addition, surface impoundments shall have regular liner inspections. Their frequency and methods of inspection shall be specified in the plan of operation and shall be based on the type of liner, expected service life of the material, and the site-specific service conditions. The inspections shall be conducted at least once every five years, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process. The jurisdictional health department shall be given sufficient notice and have the opportunity to be present during liner inspections.

(c) Maintain daily operating records on the quantity and the types of waste removed from the surface impoundment or tank. Facility inspection reports shall be maintained in the operating record. Significant deviations from the plan of operation shall be noted in the operating record. Records shall be kept for a minimum of five years and shall be available for inspection upon request by the jurisdictional health department.

(d) Shall prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st. The annual report shall detail the facility's activities during the previous calendar year and shall include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Results of ground water monitoring in accordance with WAC 173-350-500;

(iv) Results of leak detection system monitoring, if applicable; and

(v) Any additional information required by the jurisdictional health department as a condition of the permit.

(e) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

(i) A description of the types of solid waste to be handled at the facility;

(ii) A description of how wastes are handled on-site during the facility's active life;

(iii) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspection and inspection logs. This description shall include:

(A) The ground water monitoring system, if required;

(B) The overfilling prevention equipment, including details of filling and emptying techniques;

(C) The liners and embankments, tank piping and secondary containment;

(D) Safety and emergency plans;

(E) The forms used to record weights and volumes; and

(F) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

(5) *Surface impoundments and tanks - Ground water monitoring requirements*.

(a) Surface impoundments not equipped with a leak detection layer are subject to the ground water monitoring requirements of WAC 173-350-500.

(b) Surface impoundments equipped with a leak detection layer and tanks are not subject to the ground water monitoring requirements of this chapter; however, surface impoundments must meet the requirements provided under WAC 173-350-040(5).

(6) *Surface impoundments and tanks - Closure requirements*. The owner or operator of a surface impoundment or tank shall:

(a) Notify the jurisdictional health department sixty days in advance of closure. All waste from the surface impoundment or tank shall be removed to a facility that conforms with the applicable regulations for handling the waste.

(b) Develop, keep and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan shall include the methods of removing waste.

(7) *Surface impoundments and tanks - Financial assurance requirements*. There are no specific financial assurance requirements for surface impoundments or tanks subject to this chapter; however, surface impoundments and tanks must meet the requirements provided under WAC 173-350-040(5).

(8) *Surface impoundments and tanks - Permit application contents*.

(a) The owner or operator of a surface impoundment or tank shall obtain a solid waste permit from the jurisdictional health department. All applications for permits shall be submitted in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit shall contain:

(i) Engineering reports/plans and specifications that address the design standards of subsection (3) of this section;

(ii) A plan of operation meeting the requirements of subsection (4) of this section;

(iii) For surface impoundments not equipped with a leak detection layer, hydrogeologic reports and plans that address the requirements of subsection (5) of this section;

(iv) A closure plan meeting the requirements of subsection (6) of this section.

(9) *Surface impoundments and tanks - Construction records*. The owner or operator of a surface impoundment or tank shall provide copies of the construction record drawings for engineered facilities at the site and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. Facilities shall not commence operation until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-330, filed 1/10/03, effective 2/10/03.]

WAC 173-350-350 Waste tire storage and transportation. (1) *Waste tire storage and transportation - Applicability*. This section is applicable to all:

(a) Facilities that store waste tires in quantities of greater than eight hundred automobile tires or the combined weight equivalent of sixteen thousand pounds of all types of waste tires. This section is not applicable to the storage of waste tires in an enclosed building or in mobile containers used to transport waste tires.

(b) Persons engaged in the business of transporting waste tires except for:

(i) Any person transporting five tires or less;

(ii) Any person transporting used tires back to a retail outlet for repair or exchange;

(iii) Any waste hauler regulated by chapter 81.77 RCW, Solid waste collection companies;

(iv) The United States, the state of Washington or any local government, or contractors hired by these entities, when involved in the cleanup of illegal waste tire piles; and

(v) Tire retailers associated with retreading facilities who use company-owned vehicles to transport waste tires for the purposes of retreading or recycling.

(2) *Waste tire storage and transportation - Transportation prohibitions and enforcement*.

(a) No person shall enter into a contract for transportation of waste tires with an unlicensed waste tire transporter.

(b) Waste tires shall only be delivered to a facility that has obtained the required permits or licenses for storage, processing, or disposal of waste tires.

(c) Any person subject to this section who transports or stores waste tires without a valid waste tire carrier license or waste tire storage license issued by the Washington state department of licensing shall be subject to the penalty provisions of RCW 70.95.560.

(3) *Waste tire storage and transportation - Carrier license requirements*.

(a) All persons subject to this section engaged in the business of transporting waste tires are required to obtain a waste tire carrier license from the Washington state department of licensing.

(b) Application forms for a waste tire carrier license will be available at unified business identifier service centers located throughout the state. Unified business identifier service locations include:

(i) The field offices of the department of revenue and the department of labor and industries;

(ii) The tax offices of employment security;

(iii) The Olympia office of the secretary of state; and

(iv) The business license service office of the Washington state department of licensing.

(c) An application for a waste tire carrier license and a cab card for one vehicle shall include a two hundred fifty dollar application fee, fifty dollars of which shall be nonrefundable. Each additional vehicle cab card to be used by the licensee requires an additional fifty dollar fee. The application shall include:

(i) A performance bond in the sum of ten thousand dollars in favor of the state of Washington; or

(ii) In lieu of the bond, an applicant may submit other financial assurance acceptable to the department.

(d) The refundable portion of application fees may be returned to the applicant if the application is withdrawn before the department has approved or denied the application.

(e) A waste tire carrier license shall be valid for one year from the date of approval.

(4) *Waste tire storage and transportation - Location standards*. There are no specific location standards for waste tire storage sites subject to this chapter; however, waste tire storage sites must meet the requirements provided under WAC 173-350-040(5).

(5) *Waste tire storage and transportation - Design standards*. The owner or operator of a waste tire storage area shall prepare engineering reports/plans and specifications to address the design standards of this subsection. The maximum number of tires to be stored on site and the individual pile locations and sized shall be provided. The facility shall be designed so that:

(a) The size of any individual pile of waste tires shall be limited to:

(i) A maximum area of five thousand square feet;

(ii) A maximum volume of fifty thousand cubic feet; and

(iii) A maximum height of ten feet;

(b) A clear space of at least forty feet between each pile of waste tires shall be provided. The clear space shall not contain flammable or combustible material or vegetation;

(c) Tire storage shall not be located within ten feet of any property line or building and shall not exceed six feet in height within twenty feet of any property line or building; and

(d) Public access shall be limited.

(6) *Waste tire storage and transportation - Operating standards*. The owner or operator of a waste tire storage facility shall:

(a) Operate the facility to:

(i) Have communication capabilities to immediately summon fire, police, or other emergency service personnel in the event of an emergency;

(ii) Control public access in a manner sufficient to prevent arson, unauthorized vehicular traffic and illegal dumping of wastes;

(iii) Manage waste tires in such a way that it is protected from any material or conditions which may cause them to ignite;

(iv) Limit the total quantity of waste tires stored on-site at any time to the amount permitted by the jurisdictional health department;

(v) Provide on-site fire control equipment sufficient to extinguish any fire reasonably possible from one individual pile of waste tires. Fire control equipment may include, but is not limited to:

(A) Automatic sprinkler protection;

(B) Fire hydrants, hoses and ancillary equipment;

(C) Portable fire extinguishers; and

(D) Material-handling equipment capable of moving tires during fire fighting operations;

(vi) Provide vector control; and

(vii) Issue written receipts upon receiving loads of waste tires;

(b) Inspect and maintain the facility to prevent malfunctions, deterioration, operator errors and discharges that may lead to the release of wastes to the environment or cause a threat to human health. Inspections shall be as needed, but at least weekly, to ensure it is meeting the operational standards, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process;

(c) Maintain daily operating records including:

(i) The numbers of tires received and removed from the site. Quantities may be measured by:

(A) Actual number of tires; or

(B) Weight, provided the operator documents the approximate number of tires included in each load; or

(C) Volume in cubic yards, provided the operator documents the approximate number of tires included in each load;

(ii) Facility inspection reports;

(iii) Significant deviations from the plan of operation;

(iv) Records shall be kept for a minimum of five years and shall be available upon request by the jurisdictional health department;

(d) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report shall detail the facility activities during the previous calendar year and shall include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Annual quantity of tires, in tons;

(iv) Annual quantity of tires removed from the facility and end use, in tons;

(v) Total tons of tires remaining at the facility at year's end;

(vi) Applicable financial assurance reviews and audit findings in accordance with WAC 173-350-600; and

(vii) Any additional information required by the jurisdictional health department as a condition of the permit;

(e) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

(i) A description of how waste tires are to be handled on-site during the active life including:

(A) Transportation and routine storage; and

(B) Procedures for ensuring that all waste tires received by the facility have been transported in accordance with this section;

(ii) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspection and inspection logs;

(iii) Safety, fire and emergency plans addressing the following:

(A) Procedures for the use of communications equipment to immediately report emergencies to the fire department, police, or emergency service personnel;

(B) A list of all emergency equipment at the facility including the location and a brief description of its capabilities;

(C) Procedures for fire fighting and the operation of fire control equipment;

(D) Employee training and emergency duty assignments;

(E) Procedures for and frequency of fire drills;

(iv) The forms used to record weights and volumes; and

(v) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

(7) *Waste tire storage and transportation - Ground water monitoring requirements*. There are no specific ground water monitoring requirements for waste tire storage sites; however, waste tire storage sites must meet the requirements provided under WAC 173-350-040(5).

(8) *Waste tire storage and transportation - Closure requirements*. The owner or operator of a facility that stores waste tires shall:

(a) Notify the jurisdictional health department, and where applicable the financial assurance instrument provider, one hundred eighty days in advance of closure;

(b) Commence implementation of the closure plan, in part or whole, within thirty days after receipt of the final waste tires;

(c) Provide certification that the site has been closed in accordance with the approved closure plan to the jurisdictional health department; and

(d) Develop, keep and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum the closure plan shall include:

(i) Projected time intervals that identify when partial closure is to be implemented, and identify closure cost estimates and projected fund withdrawal intervals for the associated closure costs, from the approved financial assurance instrument; and

(ii) Methods of waste tire removal.

(e) The jurisdictional health department shall notify the owner or operator, the department and the financial assurance instrument provider, of the date when the jurisdictional health department has verified that the facility has been closed in accordance with the specifications of the approved closure plan.

(9) *Waste tire storage and transportation - Financial assurance requirements*.

(a) The owner or operator shall establish a financial assurance mechanism in accordance with WAC 173-350-600 for closure in accordance with the approved closure plan. The funds shall be sufficient for hiring a third party to remove the maximum number of tires permitted to be stored at the facility and deliver the tires to a facility permitted to accept the tires.

(b) Nothing in this section shall prohibit the application of funds from an existing bond as required under RCW 70.95.555, to the total amount required for financial assurance, provided the bond can be used for the activities described in (a) of this subsection.

(c) No owner or operator shall commence or continue operations at the site until a financial assurance instrument has been provided for closure activities in conformance with WAC 173-350-600.

(10) *Waste tire storage and transportation - Solid waste permit requirements*. The owner or operator shall obtain a solid waste permit from the jurisdictional health department. All applications for permits shall be in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit shall contain:

(a) Engineering reports/plans and specifications that address the design standards of subsection (5) of this section;

(b) A plan of operation addressing the requirements of subsection (6) of this section;

(c) A closure plan meeting the requirements of subsection (8) of this section; and

(d) Documentation as needed to meet the financial assurance requirements of subsection (9) of this section.

(11) *Waste tire storage and transportation - Storage site license requirements*.

(a) In order to obtain a waste tire storage license, the facility owner or operator shall first obtain a solid waste handling permit for the storage of waste tires from the jurisdictional health department.

(b) Application forms for a waste tire storage site owner license are available at unified business identifier service locations located throughout the state. Unified business identifier service locations include:

(i) The field offices of the department of revenue and the department of labor and industries;

(ii) The tax offices of employment security;

(iii) The Olympia office of the secretary of state; and

(iv) The business license service office of the Washington state department of licensing.

(c) An application for a waste tire storage site owner license shall include a two hundred fifty dollar application fee for each facility, fifty dollars of which shall be nonrefundable. The refundable portion of application fees may be returned to the applicant under the following conditions:

(i) The department determines that a solid waste permit would meet the substantive requirements of RCW 70.95.555 and determines that a license is not required; or

(ii) The applicant withdraws the application before the department has approved or denied the application.

(d) A waste tire storage site license shall be valid for one year from the date of approval.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-350, filed 1/10/03, effective 2/10/03.]

WAC 173-350-360 Moderate risk waste handling. (1) *Moderate risk waste handling - Applicability*.

(a) This section is applicable to:

(i) Any facility that accepts segregated solid waste categorized as moderate risk waste (MRW), as defined in WAC 173-350-100;

(ii) Persons transporting MRW using only a bill of lading (MRW that is not shipped using a uniform hazardous waste manifest) who store MRW for more than ten days at a single location; and

(iii) Mobile systems and collection events.

(b) This section is not applicable to:

(i) Persons transporting MRW managed in accordance with the requirements for shipments of manifested dangerous waste under WAC 173-303-240;

(ii) Universal waste regulated under chapter 173-303 WAC; and

(iii) Conditionally exempt small quantity generators managing their own wastes in compliance with the performance standards of WAC 173-350-040 and 173-303-070 (8)(b).

(2) *Mobile systems and collection events*. In accordance with RCW 70.95.305, the operation of mobile systems and collection events are subject solely to the requirements of (a) through (n) of this subsection and are exempt from solid waste handling permitting. An owner or operator that does not comply with the terms and conditions of this subsection is required to obtain a permit from the jurisdictional health department and shall comply with the applicable requirements for a moderate risk waste handling facility. In addition, violations of the terms and conditions of this subsection may be subject to the penalty provisions of RCW 70.95.315. Owners and operators of mobile systems and collection events shall:

(a) Notify the department and the jurisdictional health department of the intent to operate a mobile system or collection event at least thirty days prior to commencing operations. The notification shall include a description of the types and quantities of MRW to be handled;

(b) Manage mobile systems or collection events in compliance with the performance standards of WAC 173-350-040;

(c) Record the weights or gallons of each type of MRW collected, number of households and conditionally exempt small quantity generators served, and type of final disposition (e.g., reuse, recycled, treatment, energy recovery, or disposal). Records shall be maintained for a period of five years and will be made available to the department or jurisdictional health department on request;

(d) Ensure that the MRW at a mobile system or collection event is handled in a manner that:

(i) Prevents a spill or release of hazardous substances to the environment;

(ii) Prevents exposure of the public to hazardous substances; and

(iii) Results in delivery to a facility that meets the performance standards of WAC 173-350-040;

(e) Ensure that incompatible wastes are not allowed to come into contact with each other;

(f) Ensure that containers holding MRW remain closed except when adding or removing waste in order to prevent a

release of MRW through evaporation or spillage if overturned;

(g) Ensure that containers holding MRW have legible labels and markings that identify the waste type;

(h) Ensure that containers holding MRW are maintained in good condition (e.g., no severe rusting or apparent structural defects);

(i) Ensure that personnel are familiar with the chemical nature of the materials and the appropriate mitigating action necessary in the event of fire, leak or spill;

(j) Control public access and prevent unauthorized entry;

(k) Prepare and submit a copy of an annual report to the department and the jurisdictional health department by April 1st on forms supplied by the department. The annual report shall detail the collection activities during the previous calendar year and shall include the following information:

(i) Name of owner or operator, and locations of all collection sites;

(ii) Calendar year covered by the report;

(iii) Annual quantity and type of MRW, in pounds or gallons by waste type;

(iv) Number of households and CESQGs served;

(v) Type of final disposition (e.g., reuse, recycled, treatment, energy recovery, or disposal); and

(vi) Any additional information required by written notification of the department;

(l) Allow inspections by the department or the jurisdictional health department at reasonable times;

(m) Notify the department and the jurisdictional health department of any failure to comply with the terms and conditions of this subsection within twenty-four hours; and

(n) Mobile collection systems using truck or trailers with concealed construction, permanently attached to a chassis may require a commercial coach insignia if subject to chapter 296-150C WAC, administered by the department of labor and industries.

(3) *Limited MRW facilities and product take-back centers*. In accordance with RCW 70.95.305, the operation of limited MRW facilities is subject solely to the requirements of (a) through (i) of this subsection and is exempt from solid waste handling permitting. Product take-back centers are only subject to (b), (e) and (f) of this subsection. An owner or operator that does not comply with the terms and conditions of this subsection is required to obtain a permit from the jurisdictional health department and shall comply with the applicable requirements for an MRW facility. In addition, violations of the terms and conditions of this subsection may be subject to the penalty provisions of RCW 70.95.315. Owners and operators of limited MRW facilities shall:

(a) Notify the department and the jurisdictional health department within thirty days prior to operation of the intent to operate a limited MRW facility with a description of the type and quantity of MRW to be handled;

(b) Ensure waste at a limited MRW facility or product take-back center is handled in a manner that:

(i) Prevents a spill or release of hazardous substances to the environment;

(ii) Prevents exposure of the public to hazardous substances; and

(iii) Results in delivery to a facility that meets the performance standards of WAC 173-350-040;

(c) Ensure that containers and tanks holding MRW are maintained in good condition (e.g., no severe rusting or apparent structural defects);

(d) Provide secondary containment for containers and tanks capable of storing fifty-five gallons or more of liquid MRW;

(e) Ensure the facility meets the performance standards of WAC 173-350-040;

(f) Notify the department and the jurisdictional health department of any failure to comply with the terms and conditions of this subsection within twenty-four hours of knowledge of an incident;

(g) Allow inspections by the department and jurisdictional health department at reasonable times;

(h) Maintain records of the amount and type of MRW received, and the final disposition of the MRW by amount and type; and

(i) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report shall cover the facility's activities during the previous calendar year and shall include the following information:

(A) Name and address of the facility;

(B) Calendar year covered by the report;

(C) Annual quantity and type of MRW, in pounds or gallons by waste type;

(D) Number of households and CESQGs served;

(E) Type of final disposition (e.g., reuse, recycled, treatment, energy recovery, or disposal); and

(F) Any additional information required by written notification of the department.

(4) *Moderate risk waste facilities - Location standards*. There are no specific location standards for moderate risk waste facilities subject to this chapter; however, moderate risk waste facilities must meet the requirements provided under WAC 173-350-040(5).

(5) *Moderate risk waste facilities - Design standards*.

(a) The owner or operator of a moderate risk waste facility shall prepare engineering reports/plans and specifications, including a construction quality assurance plan, to address the following design standards. Each MRW facility shall:

(i) Be surrounded by a fence, walls, or natural features and provided with a lockable door or gate to control public and animal access;

(ii) Be constructed of materials that are chemically compatible with the MRW handled;

(iii) Provide secondary containment to capture and contain releases and spills, and facilitate timely cleanup in areas where MRW is handled. All secondary containment shall:

(A) Have sufficient capacity to:

(I) Contain ten percent of volume of all containers or tanks holding liquid or the total volume of the largest container holding liquids in the area, whichever is greater;

(II) Provide additional capacity to hold the precipitation from a twenty-five-year storm as defined in WAC 173-350-100, in uncovered areas; and

(III) Provide additional capacity to hold twenty minutes of flow from an automatic fire suppression system, where such a suppression system exists;

(B) Be segregated for incompatible wastes; and

(C) Have a base underlying the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, accumulated precipitation, or fire suppression materials until the collected material is detected and removed. The base shall be sloped or the containment system shall otherwise be designed and operated to drain and remove liquids resulting from leaks, spills, precipitation, or fire suppression unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(iv) Be accessible by all-weather roads;

(v) Prevent run-on and control runoff from a twenty-five-year storm, as defined in WAC 173-350-100;

(vi) Provide a sign at the site entrance that identifies the facility and shows at least the name of the site, and if applicable, hours during which the site is open for public use, and acceptable materials;

(vii) Provide sufficient ventilation to remove toxic vapors and dust from the breathing zone of workers and prevent the accumulation of flammable or combustible gases or fumes that could present a threat of fire or explosion;

(viii) Be constructed with explosion-proof electrical wiring, fixtures, lights, motors, switches and other electrical components as required by local fire code or the department of labor and industries;

(ix) Provide electrical grounding in areas where flammable and combustible liquids are consolidated to allow for bonding to consolidation equipment; and

(x) Provide protection of the MRW handling areas from wind, rain or snow.

(b) The owner or operator of a tank used to store or treat MRW shall prepare engineering reports/plans and specifications, including a construction quality assurance plan, to address the following design standards:

(i) Tanks and ancillary equipment shall be tested for tightness using a method acceptable to the jurisdictional health department prior to being covered, enclosed or placed in use. If a tank is found not to be tight, all repairs necessary to remedy the leak(s) in the system shall be performed and verified to the satisfaction of the jurisdictional health department prior to the tank being covered or placed in use;

(ii) Below ground tanks shall be designed to resist buoyant forces in areas of high ground water and shall either be:

(A) Retested for tightness at a minimum of once every two years; or

(B) Equipped with a leak detection system capable of detecting a release from the tank;

(iii) For tanks or components in which the external shell of a metal tank or any metal component will be in contact with the soil or water, a determination shall be made by a corrosion expert of the type and degree of external corrosion protection that is needed to ensure the integrity of the tank during its operating life. This determination shall be included with design information submitted with the permit application;

(iv) Areas used to load or unload tanks shall be designed to contain spills, drippage and accidental releases during loading and unloading of vessels;

(v) Tanks and piping shall be protected from impact by vehicles or equipment through use of curbing, grade separation, bollards or other appropriate means;

(vi) Tanks shall be structurally suited for the proposed use; and

(vii) Tanks, valves, fittings and ancillary piping shall be protected from failure caused by freezing.

(c) Prefabricated structures with concealed construction shall meet the requirements of chapter 296-150F WAC, Factory-built housing and commercial structures, administered by the department of labor and industries.

(6) *Moderate risk waste facilities - Operating standards*. The owner or operator of a MRW facility shall:

(a) Manage MRW handling activities and facilities so that:

(i) Each storage area is marked with signs to clearly show the type of MRW to be stored in that area;

(ii) Incompatible MRW and materials shall not be mixed together or allowed to come into contact with each other;

(iii) MRW shall be compatible with the containment system;

(iv) Containers or tanks are closed except when adding or removing MRW in order to prevent a release of MRW through evaporation or spillage if overturned;

(v) All containers or tanks have visible and legible labels or markings that identify the MRW type and are visible for inspection;

(vi) Containers of MRW shall be stored in a manner that allows for easy access and inspection. Drums containing MRW shall have at least one side with a minimum of thirty inches clear aisle space;

(vii) Containers holding MRW are maintained in good condition including, but not limited to, no severe rusting or apparent structural defects;

(viii) Uniform hazardous waste manifests are prepared and used at the point where possession of the MRW is given to a commercial registered dangerous waste transporter for shipments of MRW destined for out-of-state locations. This shall be completed in accordance with WAC 173-303-180;

(ix) Public access is restricted to areas identified in the plan of operation and unauthorized entry is prevented;

(x) Communication capabilities are provided to summon fire, police, or emergency service personnel;

(xi) Flammable or explosive gases do not exceed ten percent of the lower explosive limit in the area where MRW is handled. An explosive gas monitoring program shall be implemented to ensure that this standard is achieved;

(xii) MRW is delivered to a facility that meets the performance standards of WAC 173-350-040;

(xiii) Personnel responsible for routine inspections and operations are familiar with the chemical nature of the materials and the appropriate mitigating action necessary in the event of fire, leak or spill; and

(xiv) The jurisdictional health department and the department are notified of any spills or discharges of MRW to the environment.

(b) Ensure that routine and annual inspections are conducted as follows:

(i) Routine inspections shall be conducted at least weekly or once each operating day, whichever is more frequent, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process. Routine inspections shall be performed for:

(A) Operating hazards;

(B) Presence of operable safety equipment;

(C) Container integrity; and

(D) General facility condition;

(ii) Annual inspections shall be conducted to determine the condition of:

(A) Secondary containment systems including all readily accessible below floor space, sumps, and tanks for deterioration and evidence of containment failure; and

(B) All ventilation and flammable vapor monitoring systems.

(c) Maintain daily operating records of the weights or gallons of each type of MRW collected and the number of households and CESQGs served. Facility inspection reports shall be maintained in the operating record, including at least the date and time of the inspection, the name and signature of the inspector, a notation of observations made, and the date and nature of any needed repairs or remedial action. Significant deviations from the plan of operation shall be noted in the operating record. Records shall be kept for a minimum of five years and shall be available for inspection at the request of the jurisdictional health department.

(d) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report shall detail the facility's activities during the previous calendar year and must include the following information:

(i) Name and address of the facility and locations of all collection sites;

(ii) Calendar year covered by the report;

(iii) Annual quantity and type of MRW, in pounds or gallons;

(iv) Number of households and CESQGs served;

(v) Type of final disposition (e.g., reuse, recycled, treatment, energy recovery, or disposal) by type of MRW;

(vi) Applicable financial assurance reviews and audit findings in accordance with WAC 173-350-600; and

(vii) Any additional information required by the jurisdictional health department as a condition of the permit.

(e) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

(i) A description of the types of solid wastes to be handled at the facility;

(ii) A description of how MRW will be handled on-site during the active life of the facility including:

(A) Methods for managing and/or identifying unknown wastes;

(B) Procedures for managing wastes that arrive in corroded or leaking containers or when MRW is left at the gate when the facility is unattended;

(C) Protocol for sorting, processing and packaging MRW;

(D) Procedures to protect containers of MRW susceptible to damage from weather and temperature extremes;

(E) Maximum quantities of MRW to be safely stored in each area at any time;

(F) Waste acceptance protocol to preclude and redirect fully regulated dangerous waste and any unacceptable waste types, such as explosives and/or radioactives; and

(G) For facilities that offer material exchanges, a procedure for determining what MRW is suitable for exchange and how the materials exchange will be operated;

(iii) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspection and inspection logs;

(iv) Safety and emergency plans including:

(A) A list of all on-site emergency equipment with its capability, purpose, and training requirements;

(B) A description of actions to take if leaks in containers, tanks, or containment structures are suspected or detected and for other releases (e.g., failure of runoff containment system, gases generated due to chemical reactions or rapid volatilization);

(v) The forms used to record weights and volumes; and

(vi) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

(7) *Moderate risk waste facilities - Ground water monitoring requirements*. There are no specific ground water monitoring requirements for MRW facilities subject to this chapter; however, moderate risk waste facilities must meet the requirements provided under WAC 173-350-040(5).

(8) *Moderate risk waste facilities - Closure requirements*. The owner or operator of a moderate risk waste facility shall:

(a) Notify the jurisdictional health department, and where applicable, the financial assurance instrument provider, no later than one hundred eighty days prior to the projected date of the final receipt of MRW, of the intent to implement the closure plan in part or whole. The facility shall close in a manner that:

(i) Minimizes the need for further maintenance;

(ii) Removes all MRW and ensures delivery of the MRW to a facility that conforms with the applicable regulations for handling the waste;

(iii) Decontaminates all areas where MRW has been handled, including, but not limited to, secondary containment, buildings, tanks, equipment, and property; and

(iv) Prepares the facility for remedial measures after closure, if required.

(b) Commence closure activities in part or whole within thirty days following the receipt of the final volume of MRW. Waste shall not be accepted for disposal or for use in closure.

(c) At facility closure completion, in part or whole, submit the following to the jurisdictional health department:

(i) Certification by the owner or operator, and a professional engineer licensed in the state of Washington that the site has been closed in accordance with the approved closure plan; and

(ii) A closure report signed by the facility owner or operator and the certifying engineer that describes:

(A) Actions taken to determine if there has been a release to the environment; and

(B) The results of all inspections conducted as part of the closure procedure.

(d) Keep and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan shall include:

(i) A description of the activities and procedures that will be used to ensure compliance with this subsection;

(ii) An estimate of the maximum volume of MRW on-site at any time during the active life of the facility; and

(iii) Closure cost estimates and projected fund withdrawal intervals from the financial assurance instrument, if such an instrument is required by subsection (9) of this section.

(e) The jurisdictional health department shall notify the owner or operator, the department and the financial assurance instrument provider, of the date when the jurisdictional health department has verified that the facility has been closed in accordance with the specifications of the approved closure plan.

(9) *Moderate risk waste facilities - Financial assurance requirements*.

(a) The owner or operator of any fixed moderate risk waste facility that stores more than nine thousand gallons of MRW on-site, excluding used oil, is required to establish financial assurance in accordance with WAC 173-350-600.

(b) Proof of financial assurance shall be provided to the jurisdictional health department prior to the acceptance of any MRW. The financial assurance instrument shall provide sufficient funds to guarantee that all closure requirements are met. In the event that hazardous substances are released to the environment and site remediation is necessary, additional financial assurance shall be provided in order that site remediation can be accomplished.

(c) Nothing in this section shall prevent an owner or operator from including the cost of MRW facility financial assurance in an instrument established for a colocated permitted solid waste facility so long as there are adequate funds available for both closure activities and the instrument identifies the commitment of funds for both activities.

(10) *Moderate risk waste facilities - Permit application contents*. The owner or operator of a MRW facility shall obtain a solid waste permit from the jurisdictional health department. All applications for permits shall be submitted in accordance with the requirements established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit shall contain:

(a) Engineering reports/plans and specifications that address the design standards of subsection (5) of this section;

(b) A plan of operation meeting the requirements of subsection (6) of this section;

(c) A closure plan meeting the requirements of subsection (8) of this section; and

(d) Documentation as needed to meet the financial assurance requirements of subsection (9) of this section.

(11) *Moderate risk waste facilities - Construction records*. The owner or operator of a moderate risk waste facility shall provide copies of the construction record drawings for engineered facilities at the site and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. Facilities shall not commence operation until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-360, filed 1/10/03, effective 2/10/03.]

WAC 173-350-400 Limited purpose landfills. (1) *Limited purpose landfills - Applicability*. These standards apply to all landfills except:

(a) Municipal solid waste landfills regulated under chapter 173-351 WAC, Criteria for municipal solid waste landfills;

(b) Inert waste landfills regulated under WAC 173-350-410;

(c) Special incinerator ash landfills regulated under chapter 173-306 WAC, Special incinerator ash management standards;

(d) Dangerous waste landfills regulated under chapter 173-303 WAC, Dangerous waste regulations; and

(e) Chemical waste landfills used for the disposal of polychlorinated biphenyls (PCBs) regulated under Title 40 CFR Part 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions.

(2) *Limited purpose landfills - Location standards*. All limited purpose landfills shall be located to meet the following requirements:

(a) No landfill shall be located over a Holocene fault, in subsidence areas, or on or adjacent to an unstable slope or other geologic features which could compromise the structural integrity of the facility.

(b) No landfill's active area shall be located closer than one thousand feet to a down-gradient drinking water supply well, unless the owner or operator can demonstrate that a minimum of ninety days will occur between the time that a contaminant is detected and the time the contaminant can reach the nearest down-gradient drinking water supply well. Such demonstrations shall be prepared by a licensed professional in accordance with the requirements of chapter 18.220 RCW and shall be included in the permit application. The demonstration shall be based on the details of the sampling and analysis plan and the hydrogeologic properties of the hydrostratigraphic unit.

(c) No landfill's active area shall be located in a channel migration zone as defined in WAC 173-350-100 or within two hundred feet measured horizontally, of a stream, lake, pond, river, or saltwater body, nor in any wetland nor any public land that is being used by a public water system for watershed control for municipal drinking water purposes in accordance with WAC 248-54-660(4). All facilities shall conform to location restrictions established in local shoreline management plans adopted pursuant to chapter 90.58 RCW.

(d) No landfill shall be located within ten thousand feet of any airport runway currently used by turbojet aircraft or five thousand feet of any airport runway currently used by only piston-type aircraft unless the federal aviation administration grants a waiver. This requirement is only applicable where such landfill is used for disposing of wastes where a bird hazard to aircraft would be created.

(e) All landfills shall comply with the location standards specified in RCW 70.95.060.

(3) *Limited purpose landfills - Design standards*.

(a) This section applies to landfills with considerable variations in waste types, site conditions, and operational controls. All landfills shall be designed and constructed to meet the design standards of this subsection, the performance standards of WAC 173-350-040, and shall be appropriate for and compatible with the waste, the site, and the operation. The owner or operator of a limited purpose landfill shall prepare engineering reports/plans and specifications, including a construction quality assurance plan, to address the design standards of this subsection. An owner or operator shall be able to demonstrate during the permitting process that the design of a proposed landfill will mitigate threats to human health and the environment. When evaluating a landfill design, the jurisdictional health department shall consider the following factors:

(i) Waste characterization;

(ii) Soil conditions;

(iii) Hydrogeologic conditions;

(iv) Hydraulic conditions;

(v) Contaminant fate and transport;

(vi) Topography;

(vii) Climate;

(viii) Seismic conditions;

(ix) The total capacity of the facility and each landfill unit;

(x) Anticipated leachate characteristics and quantity;

(xi) Operational controls; and

(xii) Environmental monitoring systems.

(b) Liner system design.

(i) Liner system performance standard. Limited purpose landfills shall be constructed in accordance with a design that:

(A) Will prevent the contamination of the hydrostratigraphic units identified in the hydrogeologic assessment of the facility at the relevant point of compliance as specified during the permitting process; and

(B) Controls methane and other explosive gases generated by the facility to ensure they do not exceed:

(I) Twenty-five percent of the lower explosive limit for the gases in facility structures (excluding the gas control or recovery system components);

(II) The lower explosive limit in soil gases or in ambient air for the gases at the property boundary or beyond; and

(III) One hundred parts per million by volume of hydrocarbons (expressed as methane) in off-site structures.

(ii) The jurisdictional health department may allow a limited purpose landfill to be designed and constructed without a liner system if the owner or operator can demonstrate during the permitting process that:

(A) The contaminant levels in the waste and leachate are unlikely to pose an adverse impact to the environment; and

(B) The ability of natural soils to provide a barrier or reduce the concentration of contaminants provides sufficient protection to meet the performance standards of WAC 173-350-040; and

(C) Explosive gases generated by the facility will not exceed:

(I) Twenty-five percent of the lower explosive limit for the gases in facility structures (excluding the gas control or recovery system components);

(II) The lower explosive limit in soil gases or in ambient air for the gases at the property boundary or beyond; and

(III) One hundred parts per million by volume of hydrocarbons (expressed as methane) in off-site structures.

(iii) Liner separation from ground water. No landfill liner system shall be constructed such that the bottom of the lowest component is less than ten feet (three meters) above the seasonal high level of ground water, unless a hydraulic gradient control system has been installed which prevents ground water from contacting the liner. For the purpose of this section, ground water includes any water-bearing unit which is horizontally and vertically extensive, hydraulically recharged, and volumetrically significant as to harm or endanger the integrity of the liner at any time.

(iv) Hydraulic gradient control system performance standard. When a hydraulic gradient control system is to be incorporated into a landfill design, a demonstration shall be made during the permit process that the hydraulic gradient control system can be installed to control ground water fluctuations and maintain separation between the controlled seasonal high level of ground water in the identified water-bearing unit and the bottom of the lowest liner system component. The hydraulic gradient control system shall not have negative impacts on waters of the state or impede the capability to collect samples representative of the quality of ground water at the relevant point of compliance. The demonstration shall include:

(A) A discussion in the geologic and hydrogeologic site characterization showing the effects from subsoil settlement, changes in surrounding land uses, climatic trends or other impacts affecting ground water levels during the active life, closure and post-closure periods of the landfill;

(B) A discussion showing potential impacts of the gradient control operation to existing quality and quantity of ground water or surface waters. This discussion shall include potential impacts to water users and instream flow and levels of surface waters in direct hydrologic contact or continuity with the hydraulic gradient control system. Any currently available ground or surface water quality data for hydrostratigraphic units, springs, or surface waters in direct hydrologic contact or continuity with the hydraulic gradient control system shall be included;

(C) Conceptual engineering drawings of the proposed landfill and a discussion as to how the hydraulic gradient control system will protect or impact the structural integrity and performance of the liner system;

(D) Preliminary engineering drawings of the hydraulic gradient control system;

(E) Design specifications for the proposed ground and surface water monitoring systems; and

(F) A discussion of the potential impacts from the gradient control system on the capability of collecting ground water samples that will represent the quality of ground water passing the relevant point of compliance.

(v) Presumptive liner design. Limited purpose landfills designed and constructed with the following composite liner are presumed to meet the performance standard of (b)(i) of this subsection. An alternative liner system design shall be

used when the nature of the waste, the disposal facility, or other factors are incompatible with the presumptive liner. The presumptive liner design consists of the following two components:

(A) A lower component consisting of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec.

(B) An upper component consisting of a high-density polyethylene (HDPE) geomembrane with a minimum of 60-mil thickness. The geomembrane shall be installed in direct and uniform contact with the lower component.

(c) Leachate collection and control system design. Except as provided in (b)(ii) of this section, limited purpose landfills shall be constructed in accordance with a design that:

(i) Provides for collection and removal of leachate generated in the landfill;

(ii) Is capable of maintaining less than a one-foot head of leachate over the liner system and less than a two-foot head in leachate sump areas;

(iii) Includes a monitoring system capable of collecting representative samples of leachate generated in the landfill; and

(iv) Provides for leachate storage, treatment, or pretreatment to meet the requirements for permitted discharge under chapter 90.48 RCW, Water pollution control, and the Federal Clean Water Act.

(d) Run-on/runoff control system design. Limited purpose landfills shall be constructed in accordance with a design that:

(i) Will prevent flow onto the active portion of the landfill during the peak discharge from a twenty-five-year storm, as defined in WAC 173-350-100;

(ii) Will prevent unpermitted discharges from the active portion of the landfill resulting from a twenty-five-year storm, as defined in WAC 173-350-100; and

(iii) When located in a one hundred-year floodplain, the entrance and exit roads, and landfill practices do not restrict the flow of the base flood, reduce the temporary water storage capacity of the floodplain or result in washout of solid waste, to pose a hazard to human life, wildlife, land or water resources.

(e) Final closure system design.

(i) Final closure performance standard. Limited purpose landfills shall be closed in accordance with a design that:

(A) Prevents exposure of waste;

(B) Minimizes infiltration (at a minimum, the design will prevent the generation of significant quantities of leachate to eliminate the need for leachate removal by the end of the post-closure period);

(C) Prevents erosion from wind and water;

(D) Is capable of sustaining native vegetation;

(E) Addresses anticipated settlement, with a goal of achieving no less than two to five percent slope after settlement;

(F) Provides sufficient stability and mechanical strength and addresses potential freeze-thaw and desiccation;

(G) Provides for the management of run-on and runoff, preventing erosion or otherwise damaging the closure cover;

(H) Minimizes the need for post-closure maintenance;

(I) Provides for collection and removal of methane and other gases generated in the landfill. Landfill gas shall be purified for sale, used for its energy value, or flared when the quantity and quality of landfill gases will support combustion. Landfill gases may be vented when they will not support combustion. The collection and removal system shall include a monitoring system capable of collecting representative samples of gases generated in the landfill; and

(J) Meets the requirements of regulations, permits and policies administered by the jurisdictional air pollution control authority or the department under chapter 70.94 RCW, Washington Clean Air Act and Section 110 of the Federal Clean Air Act.

(ii) Presumptive final closure cover. Limited purpose landfills designed and constructed with the following closure cover are presumed to meet the performance standards in (e)(i)(A) through (D) of this subsection. An alternative final closure cover shall be used when the nature of the waste, the disposal facility or other factors are incompatible with the presumptive final closure cover system. The presumptive final closure cover consists of the following components:

(A) An antierosion layer consisting of a minimum of two feet (60 cm) of earthen material of which at least twelve inches (30 cm) of the uppermost layer is capable of sustaining native vegetation, seeded with grass or other shallow rooted vegetation; and

(B) A geomembrane with a minimum of 30-mil (.76 mm) thickness, or a greater thickness that is commensurate with the ability to join the geomembrane material and site characteristics such as slope, overlaying a competent foundation.

(f) Water balance and ground water contaminant fate and transport modeling. Any modeling performed for evaluating a landfill design shall meet the following performance standards:

(i) All water balance analysis shall be performed using:

(A) The Hydrologic Evaluation of Landfill Performance (HELP) Model; or

(B) Alternate methods approved by the jurisdictional health department. Alternate methods shall have supporting documentation establishing its ability to accurately represent the water balance within the landfill unit.

(ii) Any ground water and contaminant fate and transport modeling shall be conducted by a licensed professional in accordance with the requirements of chapter 18.220 RCW and meet the following performance standards:

(A) The model shall have supporting documentation that establishes the ability of those methods to represent ground water flow and contaminant transport under the conditions at the site;

(B) The model shall be calibrated against site-specific field data;

(C) A sensitivity analysis shall be conducted to measure the model's response to changes in the values assigned to major parameters, specific tolerances, and numerically assigned space and time discretizations;

(D) The value of the model's parameters requiring site-specific data shall be based upon actual field or laboratory measurements; and

(E) The values of the model's parameters that do not require site-specific data shall be supported by laboratory test

results or equivalent methods documenting the validity of the chosen parameter values.

(g) Seismic impact zones. Limited purpose landfills located in seismic impact zones shall be designed and constructed so that all containment structures, including liners, leachate collection systems, surface water control systems, gas management, and closure cover systems are able to resist the maximum horizontal acceleration in lithified earth materials for the site.

(h) The owner or operator of limited purpose landfills located in an unstable area shall demonstrate that engineering measures have been incorporated into the landfill's design to ensure that the integrity of the structural components of the landfill will not be disrupted. The owner or operator shall place the demonstration in the application for a permit. The owner or operator shall consider the following factors, at a minimum, when determining whether an area is unstable:

(i) On-site or local soil conditions that may result in significant differential settling;

(ii) On-site or local geologic or geomorphologic features; and

(iii) On-site or local human-made features or events (both surface and subsurface).

(i) Limited purpose landfills shall be designed to provide a setback of at least one hundred feet between the active area and the property boundary. The setback shall be increased if necessary to:

(i) Control nuisance odors, dust, and litter;

(ii) Provide a space for the placement of monitoring wells, gas probes, run-on/runoff controls, and other design elements; or

(iii) Provide sufficient area to allow proper operation of the landfill and access to environmental monitoring systems and facility structures.

(4) *Limited purpose landfills - Operating standards*. The owner or operator of a limited purpose landfill shall:

(a) Operate the facility to:

(i) Control public access and prevent unauthorized vehicular traffic, illegal dumping of wastes, and keep animals out by using artificial barriers, natural barriers, or both, as appropriate to protect human health and the environment. A lockable gate shall be required at each entry to the landfill;

(ii) Provide approach and exit roads of all-weather construction, with traffic separation and traffic control on-site, and at the site entrance;

(iii) Ensure that no liquid waste or liquids are placed in disposal facilities;

(iv) Provide on-site fire protection as determined by the local and state fire control jurisdiction. Landfills disposing of wastes that can support combustion shall have a method to control subsurface fires;

(v) Ensure that at least two landfill personnel are on-site with one person at the active face when the site is open to the public for disposal facilities with a permitted capacity of greater than fifty thousand cubic yards per year;

(vi) Provide communication between employees working at the landfill and management offices, on-site and off-site, sufficient to handle emergencies;

(vii) Control fugitive dust;

(viii) Perform no open burning unless permitted by the jurisdictional air pollution control agency or the department under chapter 70.94 RCW, Washington Clean Air Act;

(ix) Collect scattered litter as necessary to prevent vector harborage, a fire hazard, aesthetic impacts, or adversely affect wildlife or its habitat;

(x) Prohibit scavenging;

(xi) Ensure that reserve operational equipment shall be available to maintain and meet these standards; and

(xii) Ensure that operations do not endanger any containment or monitoring structures such as liners, leachate collection systems, surface water control systems, gas management, cover systems and monitoring wells.

(b) Operate the facility in compliance with the following operating standards unless a demonstration can be made during the permitting process that due to the nature, source of the waste, or quality of the leachate generated, these standards are not necessary for the protection of human health or the environment:

(i) Implement a program at the facility for detecting and preventing the disposal of dangerous waste fully regulated under chapter 173-303 WAC, municipal solid waste and other prohibited wastes. This program shall include, at a minimum:

(A) Random inspections of incoming loads unless the owner or operator takes other steps (for example, instituting source controls restricting the type of waste received) to ensure that incoming loads do not contain prohibited wastes. Random inspections shall include:

(I) Discharging a random waste load onto a suitable surface, or portion of the tipping area. A suitable surface shall be chosen to avoid interference with operations, so that sorted waste can be distinguished from other loads of uninspected waste, to avoid litter, and to contain runoff;

(II) The contents of the load shall be visually inspected prior to actual disposal of the waste. The facility owner or operator shall return prohibited waste to the hauler, arrange for disposal of prohibited wastes at a facility permitted to manage those wastes, or take other measures to prevent disposal of the prohibited waste at the facility;

(B) Maintaining records of inspections, or the results of other procedures if appropriate;

(C) Training facility personnel to recognize regulated dangerous waste, prohibited polychlorinated biphenyls (PCB) wastes and other prohibited wastes; and

(D) Immediate notification of the department and the jurisdictional health department if a regulated dangerous waste or prohibited PCB waste is discovered at the facility.

(ii) Thoroughly compact the solid waste before succeeding layers are added except for the first lift over a liner.

(iii) Cover disposed waste to control disease vectors, fires, nuisance odors, blowing litter, and scavenging. Putrescible waste shall be covered at the end of each operating day, or at more frequent intervals if necessary. The jurisdictional health department may grant a temporary waiver, not to exceed three months, from the requirement of this subsection if the owner or operator demonstrates that there are extreme seasonal climatic conditions that make meeting such requirements impractical. Materials used for cover shall be:

(A) At least six inches (15 cm) of earthen material, such as soils; or

(B) Alternative materials or an alternative thickness other than at least six inches (15 cm) of earthen material as approved by the jurisdictional health department when the owner or operator demonstrates that the alternative material or thickness will control vectors, fires, nuisance odors, blowing litter, scavenging, provide adequate access for heavy vehicles, and will not adversely affect gas or leachate composition and controls.

(iv) Prevent or control on-site populations of disease vectors using techniques appropriate for the protection of human health and the environment; and

(v) Implement a program at the facility to control and monitor explosive gases and to respond to the detection of explosive gases in a manner that ensures protection of human health. This program shall include, at a minimum:

(A) Ensure that explosive gases generated by the facility do not exceed:

(I) Twenty-five percent of the lower explosive limit for the gases in facility structures (excluding the gas control or recovery system components);

(II) The lower explosive limit in soil gases or in ambient air for the gases at the property boundary or beyond; and

(III) One hundred parts per million by volume of hydrocarbons (expressed as methane) in off-site structures;

(B) A routine explosive gas-monitoring program to ensure that all standards are met. The minimum frequency for monitoring is quarterly. The type and frequency of monitoring shall be determined based on the following factors:

(I) Soil conditions;

(II) The hydrogeologic conditions surrounding the facility;

(III) The hydraulic conditions surrounding the facility; and

(IV) The location of facility structures and property boundaries;

(C) If explosive gas levels exceed those of this subsection take all necessary steps to ensure protection of human health including:

(I) Notifying the jurisdictional health department;

(II) Monitoring off-site structures;

(III) Monitoring explosive gas levels daily, unless otherwise authorized by the jurisdictional health department;

(IV) Evacuation of buildings affected by landfill gas until determined to be safe for occupancy;

(V) Within seven calendar days of the explosive gas levels detection, placing in the operating record the explosive gas levels detected and a description of the steps taken to protect human health and provide written notification to the jurisdictional health department; and

(VI) Within sixty days of the explosive gas levels detection, implementing a remediation plan for the explosive gas releases, describing the nature and extent of the problem and the remedy. This shall be sent to the jurisdictional health department for approval as an amendment to the plan of operation. A copy of the remediation plan shall be placed in the operating record;

(D) Construction and decommissioning of all gas monitoring and extraction wells in a manner that protects ground water and meets the requirements of chapter 173-160 WAC, Minimum standards for construction and maintenance of wells;

(c) Inspect and maintain the facility to prevent malfunctions and deterioration, operator errors, and discharges that may cause or lead to the release of wastes to the environment or cause a threat to human health. The inspections shall be at least weekly, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process. The owner or operator shall keep an inspection report or summary including at least the date and time of inspection, the printed name and the signature of the inspector, a notation of observations made, and the date and nature of any repairs or corrective actions;

(d) Maintain daily operating records on the weights (or volumes), number of vehicles entering and the types of wastes received. Facility inspection reports shall be maintained in the operating record. Significant deviations from the plan of operation shall be noted on the operating record. Records shall be maintained for a minimum of five years and shall be available upon request by the jurisdictional health department;

(e) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st of each year. The annual report shall cover landfill activities during the previous calendar year and shall include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Annual quantity and type of waste accepted in tons or cubic yards with an estimate of density in pounds per cubic yard;

(iv) Results of ground water monitoring in accordance with WAC 173-350-500;

(v) Applicable financial assurance reviews and audit findings in accordance with WAC 173-350-600; and

(vi) Any additional information required by the jurisdictional health department as a condition of the permit;

(f) Develop, keep, and abide by a plan of operation approved as part of the permitting process. The plan shall describe the operation of the facility and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall contain:

(i) A description of the types of solid waste to be handled at the facility;

(ii) A description of how solid wastes are to be handled on-site during its active life including:

(A) The acceptance criteria that will be applied to the waste;

(B) Procedures for ensuring only the waste described will be accepted;

(C) Procedures for handling unacceptable wastes; and

(D) Unloading and staging areas, transportation, routine filling, compaction, grading, cover or other vector controls, and housekeeping;

(iii) A description of how equipment, structures and other systems, including leachate collection, gas collection, run-on/runoff controls, and hydraulic gradient control systems, are to be inspected and maintained, including the frequency of inspection and inspection logs;

(iv) Safety and emergency plans including;

(A) Procedures for fire (including subsurface fires) prevention, a description of fire protection equipment available on-site and actions to take if there is a fire or explosion;

(B) Actions to take if leaks are detected or for other releases, such as failure of runoff containment system, if such systems are required;

(v) The forms for recording weights and volumes; and

(vi) Other such details to demonstrate that the landfill will be operated in accordance with this subsection and as required by the jurisdictional health department.

(5) *Limited purpose landfills - Ground water monitoring requirements*. Limited purpose landfills are subject to the ground water monitoring requirements of WAC 173-350-500.

(6) *Limited purpose landfills - Closure requirements*. The following closure requirements apply in full to facilities with limited purpose landfills:

(a) The owner or operator shall notify the jurisdictional health department, and where applicable, the financial assurance instrument provider, one hundred eighty days in advance of closure of the facility, or any portion thereof. The facility, or any portion thereof, shall close in a manner that:

(i) Minimizes the need for further maintenance;

(ii) Controls, minimizes, or eliminates threats to human health and the environment from post-closure escape of solid waste constituents, leachate, landfill gases, contaminated runoff, or waste decomposition products to the ground, ground water, surface water, and the atmosphere; and

(iii) Prepares the facility, or any portion thereof, for the post-closure period.

(b) The owner or operator shall commence implementation of the closure plan in part or whole within thirty days after receipt of the final volume of waste and/or attaining the final landfill elevation at part of or at the entire landfill as identified in the approved facility closure plan unless otherwise specified in the closure plan.

(c) The owner or operator shall not accept waste, including inert wastes, for disposal or for use in closure except as identified in the closure plan approved by the jurisdictional health department.

(d) The owner or operator shall develop, keep, and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan shall include the following information:

(i) A description of the final closure cover, designed in accordance with subsection (3)(e) of this section, the methods and procedures to be used to install the closure cover, sources of borrow materials for the closure cover, and a schedule or description of the time required for completing closure activities;

(ii) Projected time intervals at which sequential partial closure and final closure are to be implemented;

(iii) A description of the activities and procedures that will be used to ensure compliance with (a) through (g) of this subsection; and

(iv) Identify closure cost estimates and projected fund withdrawal intervals for the associated closure costs, from the approved financial assurance instrument.

(e) The owner or operator shall submit final engineering closure plans, in accordance with the approved closure plan and all approved amendments, for review, comment, and approval by the jurisdictional health department.

(f) When landfill closure is completed in part or whole, the owner or operator shall submit the following to the jurisdictional health department:

(i) Landfill closure plan sheets signed by a professional engineer registered in the state of Washington and modified as necessary to represent as-built changes to final closure construction for the landfill, or a portion thereof, as approved in the closure plan; and

(ii) Certification by the owner or operator, and a professional engineer registered in the state of Washington, that the landfill, or a portion thereof has been closed in accordance with the approved closure plan.

(g) The owner or operator shall record maps and a statement of fact concerning the location of the disposal facility as part of the deed with the county auditor not later than three months after closure.

(h) The jurisdictional health department shall notify the owner or operator, the department, and the financial assurance instrument provider, of the date when the jurisdictional health department has verified that the facility, or a portion thereof, has been closed in accordance with the specifications of the approved closure plan and the closure requirements of this section, at which time the post-closure period shall commence.

(7) *Limited purpose landfills - Post-closure requirements*. The following post-closure requirements apply in full to facilities with limited purpose landfills:

(a) The owner or operator shall provide post-closure activities to allow for continued facility maintenance and monitoring of air, land, and water for a period of twenty years, or as long as necessary for the landfill to stabilize and to protect human health and the environment. For disposal facilities, post-closure care includes at least the following:

(i) Maintaining the integrity and effectiveness of any final closure cover, including making repairs to the closure cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, maintaining the vegetative cover, and preventing run-on and runoff from eroding or otherwise damaging the final closure cover;

(ii) General maintenance of the facility and facility structures for their intended use;

(iii) Monitoring ground water, surface water, leachate, or other waters in accordance with the requirements of WAC 173-350-500 and the approved monitoring plan, including remedial measures if applicable, and maintaining all monitoring systems;

(iv) Monitoring landfill gas and maintaining and operating the gas collection and control systems;

(v) Maintaining, operating, and monitoring hydraulic gradient controls systems if applicable;

(vi) Monitoring settlement; and

(vii) Any other activities deemed appropriate by the jurisdictional health department.

(b) The owner or operator shall commence post-closure activities for the facility, or portion thereof, after completion of closure activities outlined in subsection (6) of this section. The jurisdictional health department may direct that post-closure activities cease until the owner or operator receives a notice to proceed with post-closure activities.

(c) The owner or operator shall develop, keep, and abide by a post-closure plan approved by the jurisdictional health department as a part of the permitting process. The post-closure plan shall:

(i) Address facility maintenance and monitoring activities for at least a twenty-year period or until the landfill becomes stabilized (i.e., little or no settlement, gas production or leachate generation), and monitoring of ground water, surface water, gases and settlement can be safely discontinued; and

(ii) Project time intervals at which post-closure activities are to be implemented, and identify post-closure cost estimates and projected fund withdrawal intervals from the selected financial assurance instrument, where applicable, for the associated post-closure costs.

(d) The owner or operator shall complete post-closure activities for the facility, or portion thereof, in accordance with the approved post-closure plan and schedule, or the plan shall be so amended with the approval of the jurisdictional health department. The jurisdictional health department may direct facility post-closure activities, in part or completely, to cease until the post-closure plan has been amended and has received written approval by the health department.

(e) When post-closure activities are complete, the owner or operator shall submit a certification to the jurisdictional health department, signed by the owner or operator, and a professional engineer registered in the state of Washington stating why post-closure activities are no longer necessary.

(f) If the jurisdictional health department finds that post-closure monitoring has established that the landfill is stabilized, the health department may authorize the owner or operator to discontinue post-closure maintenance and monitoring activities.

(g) The jurisdictional health department shall notify the owner or operator, the department, and the financial assurance instrument provider, of the date when the jurisdictional health department has verified that the facility has completed post-closure activities in accordance with the specifications of the approved post-closure plan.

(8) *Limited purpose landfills - Financial assurance requirements*.

(a) Financial assurance is required for all limited purpose landfills.

(b) Each owner or operator shall establish a financial assurance mechanism in accordance with WAC 173-350-600 that will accumulate funds equal to the closure and post-closure cost estimates over the life of the landfill, or over the life of each landfill unit if closed discretely.

(c) No owner or operator shall commence or continue disposal operations in any part of a facility subject to this section until a financial assurance instrument has been provided for closure and post-closure activities in conformance with WAC 173-350-600.

(9) *Limited purpose landfills - Permit application contents*. The owner or operator shall obtain a solid waste permit from the jurisdictional health department. All applications for permits shall be in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit shall contain:

(a) Demonstrations that the facility meets the location standards of subsection (2) of this section;

(b) Documentation that all owners of property located within one thousand feet of the facility property boundary have been notified that the proposed facility may impact their ability to construct water supply wells, in accordance with chapter 173-160 WAC, Minimum standards for construction and maintenance of wells;

(c) Engineering reports/plans and specifications that address the design standards of subsection (3) of this section;

(d) A plan of operation meeting the requirements of subsection (4) of this section;

(e) Hydrogeologic reports and plans that address the requirements of subsection (5) of this section;

(f) A closure plan meeting the requirements of subsection (6) of this section;

(g) A post-closure plan meeting the requirements of subsection (7) of this section; and

(h) Documentation as needed to meet the financial assurance requirements of subsection (8) of this section.

(10) *Limited purpose landfills - Construction records*. The owner or operator of a limited purpose landfill shall provide copies of the construction record drawings for engineered facilities at the site and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. Facilities shall not commence operation until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-400, filed 1/10/03, effective 2/10/03.]

WAC 173-350-410 Inert waste landfills. (1) *Inert waste landfills - Applicability*. These standards apply to landfills that receive only inert wastes, as identified pursuant to WAC 173-350-990, including facilities that use inert wastes as a component of fill. In accordance with RCW 70.95.305, facilities with a total capacity of two hundred fifty cubic yards or less of inert wastes are categorically exempt from solid waste handling permitting and other requirements of this section, provided that the inert waste landfill is operated in compliance with the performance standards of WAC 173-350-040. An owner or operator that does not comply with the performance standards of WAC 173-350-040 is required to obtain a permit from the jurisdictional health department, and may be subject to the penalty provisions of RCW 70.95.315.

(2) *Inert waste landfills - Location standards*. All inert waste landfills shall be located to meet the following requirements. No inert waste landfill's active area shall be located:

(a) On an unstable slope;

(b) Closer than ten feet from the facility property line;

(c) Closer than one hundred feet to a drinking water supply well; or

(d) In a channel migration zone as defined in WAC 173-350-100, or within one hundred feet measured horizontally, of a stream, lake, pond, river, or saltwater body, nor in any wetland nor any public land that is being used by a public

water system for watershed control for municipal drinking water purposes in accordance with WAC 248-54-660(4).

(3) *Inert waste landfills - Design standards*. The owner or operator of an inert waste landfill shall prepare engineering reports/plans and specifications to address the design standards of this subsection. The existing site topography, including the location and approximate thickness and nature of any existing waste, the vertical and horizontal limits of excavation and waste placement, final closure elevation and grades, and the design capacity of each landfill unit, total design capacity, and future use of the facility after closure, shall be included. Inert waste landfills shall be designed and constructed to:

(a) Ensure that all waste is above the seasonal high level of ground water. For the purpose of this section, ground water includes any water-bearing unit which is horizontally and vertically extensive, hydraulically recharged, and volumetrically significant;

(b) Maintain a stable site; and

(c) Manage surface water, including run-on prevention and runoff conveyance, storage, and treatment, to protect the waters of the state;

(4) *Inert waste landfills - Operating standards*. The owner or operator of an inert waste landfill shall:

(a) Operate the facility to:

(i) Control public access and prevent unauthorized vehicular traffic and illegal dumping of wastes;

(ii) Implement a program at the facility capable of detecting and preventing noninert wastes from being accepted or mixed with inert waste;

(iii) Handle all inert waste in a manner that is in compliance with the performance standards of WAC 173-350-040;

(iv) Handle all inert waste in a manner that controls fugitive dust and is protective of waters of the state; and

(v) Prevent unstable conditions resulting from their activities;

(b) Inspect and maintain the facility to prevent malfunctions and deterioration, operator errors and discharges that may cause a threat to human health. Inspections shall be as needed, but at least weekly, to ensure meeting operational standards, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process;

(c) Maintain daily operating records of the quantities of inert waste disposed. In addition, record and retain information that documents that all wastes landfilled meet the criteria for inert waste. Facility inspection reports shall be maintained in the operating record. Significant deviations from the plan of operation shall be noted in the operating record. Records shall be maintained for minimum of five years and shall be available upon request by the jurisdictional health department;

(d) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report shall detail the facility's activities during the previous calendar year and shall include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Annual quantity and type of waste disposed in tons or cubic yards with an estimate of density in pounds per cubic yard; and

(iv) Any additional information required by the jurisdictional health department as a condition of the permit;

(e) Develop, keep, and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include:

(i) A description of the types of solid waste to be handled at the facility;

(ii) A description of how solid wastes are to be handled on-site during its active life including:

(A) Acceptance criteria that will be applied to the waste;

(B) Procedures for ensuring only the waste described will be accepted;

(C) Procedures for handling unacceptable wastes; and

(D) Procedures for transporting and routine filling and grading;

(iii) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspection and inspection logs;

(iv) Safety and emergency plans;

(v) The forms used to record weights and volumes; and

(vi) Other such details to demonstrate that the facility will meet the requirements of this subsection and as required by the jurisdictional health department.

(5) *Inert waste landfills - Ground water monitoring standards*. There are no specific ground water monitoring requirements for inert waste landfills subject to this chapter; however, inert waste landfills must meet the requirements provided under WAC 173-350-040(5).

(6) *Inert waste landfills - Closure requirements*. The owner or operator of an inert waste landfill shall:

(a) Notify the jurisdictional health department sixty days in advance of closure of the facility;

(b) Close the inert waste landfill unit by leveling the wastes to the extent practicable, or as appropriate for the proposed future use, and fill all voids which could pose a physical threat for persons, or which provide disease vector harborages. The inert waste landfills shall be closed in a manner to control fugitive dust and protect the waters of the state; and

(c) Record maps and a statement of fact concerning the location of the landfill as part of the deed with the county auditor not later than three months after closure.

(7) *Inert waste landfills - Financial assurance requirements*. There are no specific financial assurance requirements for inert waste landfills subject to this chapter; however, inert waste landfills must meet the requirements provided under WAC 173-350-040(5).

(8) *Inert waste landfills - Permit application contents*. The owner or operator shall obtain a solid waste permit from the jurisdictional health department. All applications for permits shall be submitted in accordance with the procedures established in WAC 173-350-710. In addition to the require-

ments of WAC 173-350-710 and 173-350-715, each application for a permit shall contain:

(a) Engineering reports/plans and specifications that address the design standards of subsection (3) of this section;

(b) A plan of operation that meets the requirements of subsection (4) of this section; and

(c) Documentation that all owners of property located within one thousand feet of the facility property boundary have been notified that the proposed facility may impact their ability to construct water supply wells, in accordance with chapter 173-160 WAC, Minimum standards for construction and maintenance of wells.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-410, filed 1/10/03, effective 2/10/03.]

WAC 173-350-490 Other methods of solid waste handling. (1) *Other methods of solid waste handling - Applicability*. This section applies to other methods of solid waste handling not specifically identified elsewhere in this regulation, nor excluded from this regulation.

(2) *Other methods of solid waste handling - Requirements*. Owners and operators of solid waste handling facilities subject to this section shall:

(a) Comply with the requirements in WAC 173-350-040; and

(b) Obtain a permit in accordance with the provisions of WAC 173-350-700 from the jurisdictional health department. Permit applications shall be submitted in accordance with the provisions of WAC 173-350-710 and shall include information required in WAC 173-350-715, and any other information as may be required by the jurisdictional health department.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-490, filed 1/10/03, effective 2/10/03.]

WAC 173-350-500 Ground water monitoring. (1) *Ground water monitoring - Professional qualifications*. All reports, plans, procedures, and design specifications required by this section shall be prepared by a licensed professional in accordance with the requirements of chapter 18.220 RCW.

(2) *Ground water monitoring - Site characterization*. A site proposed for solid waste activities shall be characterized for its geologic and hydrogeologic properties and suitability for constructing, operating, and monitoring a solid waste facility in accordance with all applicable requirements of this chapter. The site characterization report shall be submitted with the permit application and shall include at a minimum the following:

(a) A summary of local and regional geology and hydrology, including:

(i) Faults;

(ii) Zones of joint concentrations;

(iii) Unstable slopes and subsidence areas on-site;

(iv) Areas of ground water recharge and discharge;

(v) Stratigraphy; and

(vi) Erosional and depositional environments and facies interpretation(s);

(b) A site-specific borehole program including description of lithology, soil/bedrock types and properties, preferential ground water flow paths or zones of higher hydraulic conductivity, the presence of confining unit(s) and geologic features such as fault zones, cross-cutting structures, etc., and the target hydrostratigraphic unit(s) to be monitored. Requirements of the borehole program include:

(i) Each boring will be of sufficient depth below the proposed grade of the bottom liner to identify soil, bedrock, and hydrostratigraphic unit(s);

(ii) Boring samples shall be collected from five-foot intervals at a minimum and at changes in lithology. Representative samples shall be described using the unified soil classification system following ASTM D2487-85 and tested for the following if appropriate:

(A) Particle size distribution by sieve and hydrometer analyses in accordance with approved ASTM methods (D422 and D1120); and

(B) Atterburg limits following approved ASTM method D4318;

(iii) Each lithologic unit on-site will be analyzed for:

(A) Moisture content sufficient to characterize the unit using ASTM method D2216; and

(B) Hydraulic conductivity by an in situ field method or laboratory method. All samples collected for the determination of permeability shall be collected by standard ASTM procedures;

(iv) All boring logs shall be submitted with the following information:

(A) Soil and rock descriptions and classifications;

(B) Method of sampling;

(C) Sample depth, interval and recovery;

(D) Date of boring;

(E) Water level measurements;

(F) Standard penetration number following approved ASTM method D1586-67;

(G) Boring location; and

(H) Soil test data;

(v) All borings not converted to monitoring wells or piezometers shall be carefully backfilled, plugged, and recorded in accordance with WAC 173-160-420;

(vi) During the borehole drilling program, any on-site drilling and lithologic unit identification shall be performed under the direction of a licensed professional in accordance with the requirements of chapter 18.220 RCW who is trained to sample and identify soils and bedrock lithology;

(vii) An on-site horizontal and vertical reference datum shall be established during the site characterization. The standards for land boundary surveys and geodetic control surveys and guidelines for the preparation of land descriptions shall be used to establish borehole and monitoring well coordinates and casing elevations from the reference datum;

(viii) Other methods, including geophysical techniques, may be used to supplement the borehole program to ensure that a sufficient hydrogeologic site characterization is accomplished;

(c) A site-specific flow path analysis that includes:

(i) The depths to ground water and hydrostratigraphic unit(s) including transmissive and confining units; and

(ii) Potentiometric surface elevations and contour maps, direction and rate of horizontal and vertical ground water flow;

(d) Identification of the quantity, location, and construction (where available) of private and public wells within a two thousand-foot radius, measured from the site boundaries;

(e) Tabulation of all water rights for ground water and surface water within a two thousand-foot (610 m) radius, measured from site boundaries;

(f) Identification and description of all surface waters within a one-mile (1.6 km) radius, measured from site boundaries;

(g) A summary of all previously collected site ground water and surface water analytical data, and for expanded facilities, identification of impacts of the existing facility upon ground and surface waters from landfill leachate discharges to date;

(h) Calculation of a site water balance;

(i) Conceptual design of ground water and surface water monitoring systems, and where applicable a vadose zone monitoring system, including proposed construction and installation methods for these systems;

(j) Description of land use in the area, including nearby residences;

(k) A topographic map of the site and drainage patterns, including an outline of the waste management area, property boundary, the proposed location of ground water monitoring wells, and township and range designations; and

(l) Geologic cross sections.

(3) *Ground water monitoring - System design*.

(a) The ground water monitoring system design and report shall be submitted with the permit application and shall meet the following criteria:

(i) A sufficient number of monitoring wells shall be installed at appropriate locations and depths to yield representative ground water samples from those hydrostratigraphic units which have been identified in the site characterization as the earliest potential contaminant flowpaths;

(ii) Represent the quality of ground water at the point of compliance, and include at a minimum:

(A) A ground water flow path analysis which supports why the chosen hydrostratigraphic unit is capable of providing an early warning detection of any ground water contamination.

(B) Documentation and calculations of all of the following information:

(I) Hydrostratigraphic unit thickness including confining units and transmissive units;

(II) Vertical and horizontal ground water flow directions including seasonal, man-made, or other short-term fluctuations in ground water flow;

(III) Stratigraphy and lithology;

(IV) Hydraulic conductivity; and

(V) Porosity and effective porosity.

(b) Upgradient monitoring wells (background wells) shall meet the following performance criteria:

(i) Shall be installed in ground water that has not been affected by leakage from a landfill unit; or

(ii) If hydrogeologic conditions do not allow for the determination of an upgradient monitoring well, then sampling at other monitoring wells which provide representative background ground water quality may be allowed.

(c) Downgradient monitoring wells (compliance wells) shall meet the following performance criteria:

(i) Represent the quality of ground water at the point of compliance;

(ii) Be installed as close as practical to the point of compliance;

(iii) When physical obstacles preclude installation of ground water monitoring wells at the relevant point of compliance at the landfill unit or solid waste facility, the downgradient monitoring system may be installed at the closest practical distance hydraulically downgradient from the relevant point of compliance that ensures detection of ground water contamination in the chosen hydrostratigraphic unit.

(d) All monitoring wells shall be constructed in accordance with chapter 173-160 WAC, Minimum standards for construction and maintenance of wells, and chapter 173-162 WAC, Regulation and licensing of well contractors and operators.

(e) The owner or operator shall notify the jurisdictional health department and the department of any proposed changes to the design, installation, development, and decommission of any monitoring wells, piezometers, and other measurement, sampling, and analytical devices. Proposed changes shall not be implemented prior to the jurisdictional health department's written approval. Upon completing changes, all documentation, including date of change, new monitoring well location maps, boring logs, and monitoring well diagrams, shall be submitted to the jurisdictional health department and shall be placed in the operating record.

(f) All monitoring wells, piezometers, and other measurement, sampling, and analytical devices shall be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

(4) *Ground water monitoring - Sampling and analysis plan*.

(a) The ground water monitoring program shall include consistent sampling and analysis procedures that are designed to provide monitoring results that are representative of ground water quality at the upgradient and downgradient monitoring wells. In addition to monitoring wells, facilities with hydraulic gradient control and/or leak detection systems will provide representative ground water samples from those systems. The owner or operator shall submit a compliance sampling and analysis plan as part of the permit application. The plan shall include procedures and techniques for:

(i) Sample collection and handling;

(ii) Sample preservation and shipment;

(iii) Analytical procedures;

(iv) Chain-of-custody control;

(v) Quality assurance and quality control;

(vi) Decontamination of drilling and sampling equipment;

(vii) Procedures to ensure employee health and safety during well installation and monitoring; and

(viii) Well operation and maintenance procedures.

(b) Facilities collecting leachate shall include leachate sampling and analysis as part of compliance monitoring.

(c) The ground water monitoring program shall include sampling and analytical methods that are appropriate for ground water samples. The sampling and analytical methods shall provide sufficient sensitivity, precision, selectivity and limited bias such that changes in ground water quality can be detected and quantified. All samples shall be sent to an accredited laboratory for analyses in accordance with chapter 173-50 WAC, Accreditation of environmental laboratories.

(d) Ground water elevations shall be measured in each monitoring well immediately prior to purging, each time ground water is sampled. The owner or operator shall determine the rate and direction of ground water flow each time ground water is sampled. All ground water elevations shall be determined by a method that ensures measurement to the one hundredth of a foot (3 mm) relative to the top of the well casing.

(e) Ground water elevations in wells that monitor the same landfill unit shall be measured within a period of time short enough to avoid any ground water fluctuations which could preclude the accurate determination of ground water flow rate and direction.

(f) The owner or operator shall establish background ground water quality in each upgradient and downgradient monitoring well. Background ground water quality shall be based upon a minimum of eight independent samples. Samples shall be collected for each monitoring well and shall be analyzed for parameters required in the permit for the first year of ground water monitoring. Each independent sampling event shall be no less than one month after the previous sampling event.

(g) Ground water quality shall be determined at each monitoring well at least quarterly during the active life of the solid waste facility, including closure and the post-closure period. More frequent monitoring may be required to protect downgradient water supply wells. Ground water monitoring shall begin after background ground water quality has been established. The owner or operator may propose an alternate ground water monitoring frequency. Ground water monitoring frequency must be no less than semiannually. The owner or operator must apply for a permit modification or must apply during the renewal process for changes in ground water monitoring frequency making a demonstration based on the following information:

(i) A characterization of the hydrostratigraphic unit(s) including the unsaturated zone, transmissive and confining units and include the following:

(A) Hydraulic conductivity; and

(B) Ground water flow rates;

(ii) Minimum distance between upgradient edge of the solid waste handling unit and downgradient monitoring wells (minimum distance of travel); and

(iii) Contaminant fate and transport characteristics.

(h) All facilities shall test for the following parameters:

(i) Field parameters:

(A) pH;

(B) Specific conductance;

(C) Temperature;

(D) Static water level;

(ii) Geochemical indicator parameters:

(A) Alkalinity (as Ca CO_3);

(B) Bicarbonate (HCO_3);

(C) Calcium (Ca);

(D) Chloride (Cl);

(E) Iron (Fe);

(F) Magnesium (Mg);

(G) Manganese (Mn);

(H) Nitrate(NO_3);

(I) Sodium (Na);

(J) Sulfate (SO_4);

(iii) Leachate indicators:

(A) Ammonia (NH_3-N);

(B) Total organic carbon (TOC);

(C) Total dissolved solids (TDS).

(i) Based upon the site specific waste profile and also the leachate characteristics for lined facilities, the owner or operator shall propose additional constituents to include in the monitoring program. The jurisdictional health department shall specify the additional constituents in the solid waste permit.

(j) Testing shall be performed in accordance with "*Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*," U.S. EPA Publication SW-846, or other testing methods approved by the jurisdictional health department.

(k) Maximum contaminant levels (MCL) for ground water are those specified in chapter 173-200 WAC, Water quality standards for ground waters of the state of Washington.

(5) *Ground water monitoring - Data analysis, notification and reporting*.

(a) The results of monitoring well sample analyses as required by subsection (4)(h) and (i) of this section shall be evaluated using an appropriate statistical procedure(s), as approved by the jurisdictional health department during the permitting process, to determine if a significant increase over background has occurred. The statistical procedure(s) used shall be proposed in the sampling and analysis plan and be designed specifically for the intended site, or prescriptive statistical procedures from appropriate state and federal guidance may be used.

(b) If statistical analyses determine a significant increase over background:

(i) The owner or operator shall:

(A) Notify the jurisdictional health department and the department of this finding within thirty days of receipt of the sampling data. The notification shall indicate what parameters or constituents have shown statistically significant increases;

(B) Immediately resample the ground water for the parameter(s) showing statistically significant increase in the monitoring well(s) where the statistically significant increase has occurred;

(C) Establish a ground water protection standard using the ground water quality criteria of chapter 173-200 WAC, Water quality standards for ground waters of the state of Washington. Constituents for which the background concentration level is higher than the protection standard, the owner or operator shall use background concentration for constituents established in the facility's monitoring record.

(ii) The owner or operator may demonstrate that a source other than a landfill unit or solid waste facility caused the contamination, or the statistically significant increase resulted from error in sampling, analyses, statistical evaluation, or natural variation in ground water quality. If such a demonstration cannot be made and the concentrations or levels of the constituents:

(A) Meet the criteria established by chapter 173-200 WAC, Water quality standards for ground waters of the state of Washington, the owner or operator shall:

(I) Assess and evaluate sources of contamination; and

(II) Implement remedial measures in consultation with the jurisdictional health department and the department.

(B) Exceed the criteria established by chapter 173-200 WAC, Water quality standards for ground waters of the state of Washington, the owner or operator shall:

(I) Characterize the chemical composition of the release and the contaminant fate and transport characteristics by installing additional monitoring wells;

(II) Assess and, if necessary, implement appropriate intermediate measures to remedy the release. The measures shall be approved by the jurisdictional health department and the department; and

(III) Evaluate, select, and implement remedial measures as required by chapter 173-340 WAC, the Model Toxics Control Act cleanup regulation, where applicable. The roles of the jurisdictional health department and the department in remedial action are further defined by WAC 173-350-900.

(c) The owner or operator shall submit a copy of an annual report to the jurisdictional health department and the department by April 1st of each year. The jurisdictional health department may require more frequent reporting based on the results of ground water monitoring. The annual report shall summarize and interpret the following information:

(i) All ground water monitoring data, including laboratory and field data for the sampling periods;

(ii) Statistical results and/or any statistical trends including any findings of any statistical increases for the year and time/concentration series plots;

(iii) A summary of concentrations above the maximum contaminant levels of chapter 173-200 WAC;

(iv) Static water level readings for each monitoring well for each sampling event;

(v) Potentiometric surface elevation maps depicting ground water flow rate and direction for each sampling event, noting any trends or changes during the year;

(vi) Geochemical evaluation including cation-anion balancing and trilinear and/or stiff diagraming for each sampling event noting any changes or trends in water chemistry for each well during the year; and

(vii) Leachate analyses where appropriate for each sampling event.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-500, filed 1/10/03, effective 2/10/03.]

WAC 173-350-600 Financial assurance requirements. (1) *Financial assurance requirements - Applicability*. This section is applicable to:

(a) Waste tires storage facilities regulated under WAC 173-350-350;

(b) Moderate risk waste facilities regulated under WAC 173-350-360; and

(c) Limited purpose landfills regulated under WAC 173-350-400.

(2) *Financial assurance requirements - Definitions*. For the purposes of this section, the following definitions apply:

(a) Public facility means a publicly or privately owned facility that accepts solid waste generated by other persons.

(b) Private facility means a privately owned facility maintained on private property solely for the purpose of managing waste generated by the entity owning the site.

(3) *Financial assurance requirements - Instrument options*. Financial assurance options are available, based on facility type as defined in WAC 173-350-600(2), ownership and permittee. Contents of all instruments must be acceptable to the jurisdictional health department. The following instrument options exist:

(a) Reserve accounts that are managed as either:

(i) Cash and investments accumulated and restricted for activities identified in the closure or post-closure plans, with the equivalent amount of fund balance reserved in the fund; or

(ii) Cash and investments held in a nonexpendable trust fund.

(b) Trust funds to receive, manage and disburse funds for activities identified in the approved closure and post-closure plans. Trust funds shall be established with an entity that has authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(c) Surety bond(s) issued by a surety company listed as acceptable in Circular 570 of the United States Treasury Department. A standby trust fund for closure or post-closure shall also be established by the owner or operator to receive any funds that may be paid by the operator or surety company. The surety shall become liable for the bond obligation if the owner or operator fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least one hundred twenty days after the owner or operator, the jurisdictional health department and the department have received notice of cancellation. If the owner or operator has not provided alternate financial assurance acceptable under this section within ninety days of the cancellation notice, the surety shall pay the amount of the bond into the standby closure or post-closure trust account. The following types of surety bonds are options:

(i) Surety bond; or

(ii) Surety bond guaranteeing that the owner or operator will perform final closure or post-closure activities.

(d) Irrevocable letter of credit issued by an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency. Standby trust funds for closure and post-closure shall also be established by the owner or operator to receive any funds deposited by the issuing institution resulting from a draw on the letter of credit. The letter of credit shall be irrevocable and issued for a period of at least one year, and renewed annually, unless the issuing institution notifies the owner or operator, the jurisdictional health department and the department at least one hundred twenty days before the current expiration date. If the owner or operator fails to perform activities according to the closure or post-closure plan and permit requirements, or if the owner or operator fails to provide alternate financial assurance acceptable to the jurisdictional health department within ninety days after notification that the letter of credit will not be extended, the jurisdictional health department may require that the financial institution provide the funds from the letter of credit to the jurisdictional health department to be used to complete the required closure and post-closure activities;

(e) Insurance policies issued by an insurer who is licensed to transact the business of insurance or is eligible as

an excess or surplus line insurer in one or more states, the content of which:

(i) Guarantees that the funds will be available to complete those activities identified in the approved closure or post-closure plans;

(ii) Guarantees that the insurer will be responsible for paying out funds for those activities;

(iii) Provides that the insurance is automatically renewable and that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium;

(iv) Provides that if there is a failure to pay the premium, the insurer may not terminate the policy until at least one hundred twenty days after the notice of cancellation has been received by the owner or operator, the jurisdictional health department and the department;

(v) Provides that termination of the policy may not occur and the policy shall remain in full force and effect if:

(A) The jurisdictional health department determines the facility has been abandoned;

(B) Closure has been ordered by the jurisdictional health department or a court of competent jurisdiction;

(C) The owner or operator has been named as debtor in a voluntary or involuntary proceeding under Title 11 U.S.C., Bankruptcy; or

(D) The premium due is paid;

(vi) The owner or operator is required to maintain the policy in full force and until an alternative financial assurance guarantee is provided or when the jurisdictional health department has verified that closure, and/or post-closure, as appropriate, have been completed in accordance with the approved closure or post-closure plan;

(vii) For purposes of this rule, "captive" insurance companies as defined in WAC 173-350-100, are not an acceptable insurance company.

(f) Financial Test/corporate guarantee allows for a private corporation meeting the financial test to provide a corporate guarantee those activities identified in the closure and post-closure plans will be completed.

(i) To qualify, a private corporation owner or operator shall meet the criteria of either option A or B:

(A) Option A - to pass the financial test under this option the private corporation shall have:

(I) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; or a ratio of current assets to current liabilities greater than 1.5;

(II) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates;

(III) Tangible net worth of at least ten million dollars; and

(IV) Assets in the United States amounting to at least ninety percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates.

(B) Option B - to pass this alternative financial test, the private corporation shall have:

(I) A current rating of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;

(II) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates;

(III) Tangible net worth of at least ten million dollars; and

(IV) Assets in the United States amounting to at least ninety percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates.

(ii) The owner or operator's chief financial officer shall provide a corporate guarantee that the corporation passes the financial test at the time the closure plan is filed. This corporate guarantee shall be reconfirmed annually ninety days after the end of the corporation's fiscal year by submitting to the jurisdictional health department a letter signed by the chief financial officer that:

(A) Provides the information necessary to document that the owner or operator passes the financial test;

(B) Guarantees that the funds to finance closure and post-closure activities according to the closure or post-closure plan and permit requirements are available;

(C) Guarantees that closure and post-closure activities will be completed according to the closure or post-closure plan and permit requirements;

(D) Guarantees that within thirty days if written notification is received from the jurisdictional health department that the owner or operator no longer meets the criteria of the financial test, the owner or operator shall provide an alternative form of financial assurance consistent with the requirements of this section;

(E) Guarantees that the owner or operator's chief financial officer will notify in writing the jurisdictional health department and the department within fifteen days any time that the owner or operator no longer meets the criteria of the financial test or is named as debtor in a voluntary or involuntary proceeding under Title 11 U.S.C., Bankruptcy;

(F) Acknowledges that the corporate guarantee is a binding obligation on the corporation and that the chief financial officer has the authority to bind the corporation to the guarantee;

(G) Attaches a copy of the independent certified public accountant's report on examination of the owner or operator's financial statements for the latest completed fiscal year; and

(H) Attaches a special report from the owner or operator's independent certified public accountant (CPA) stating that the CPA has reviewed the information in the letter from the owner or operator's chief financial officer and has determined that the information is true and accurate.

(iii) The jurisdictional health department may, based on a reasonable belief that the owner or operator no longer meets the criteria of the financial test, require reports of the financial condition at any time in addition to the annual report. The jurisdictional health department will specify the information required in the report. If the jurisdictional health department finds, on the basis of such reports or other information, that the owner or operator no longer meets the criteria of the financial test, the owner or operator shall provide an alternative form of financial assurance consistent with the requirements of this section, within thirty days after notification by the jurisdictional health department.

(iv) If the owner or operator fails to perform final closure and, where required, provide post-closure care of a facility covered by the guarantee in accordance with the approved

closure and post-closure plans, the guarantor will be required to complete the appropriate activities.

(v) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator, the jurisdictional health department and the department. Cancellation may not occur, however, during the one hundred twenty days beginning on the date of receipt of the notice of cancellation by the owner or operator, the jurisdictional health department and the department.

(vi) If the owner or operator fails to provide alternate financial assurance as specified in this section and obtain the written approval of such alternate assurance from the jurisdictional health department within ninety days after receipt of a notice of cancellation of the guarantee from the guarantor, the guarantor will provide such alternative financial assurance in the name of the owner or operator.

(4) *Financial assurance requirements - Eligible financial assurance instruments*. The financial assurance instruments identified in subsection (3) of this section are available for use based on facility category and whether the permittee is a public or private entity as follows:

(a) For a public facility, as defined in subsection (2) of this section, when the permittee is a public entity, the following options are available:

(i) Reserve account;

(ii) Trust account;

(iii) Surety bond (payment or performance); or

(iv) Insurance;

(b) For a public facility as defined in subsection (2) of this section, where the permittee is a private entity, the following options are available:

(i) Trust account;

(ii) Surety bond (payment or performance);

(iii) Letter of credit; or

(iv) Insurance;

(c) For private facilities as defined in subsection (2) of this section, the following options are available:

(i) Trust account;

(ii) Surety bond (payment or performance);

(iii) Letter of credit;

(iv) Insurance; or

(v) Financial test/corporate guarantee.

(5) *Financial assurance requirements - Cost estimate for closure*. The owner or operator shall:

(a) Prepare a written closure cost estimate as part of the facility closure plan. The closure cost estimate shall:

(i) Be in current dollars and represent the cost of closing the facility;

(ii) Provide a detailed written estimate, in current dollars, of the cost of hiring a third party to close the facility at any time during the active life when the extent and manner of its operation would make closure the most expensive in accordance with the approved closure plan;

(iii) Project intervals for withdrawal of closure funds from the closure financial assurance instrument to complete the activities identified in the approved closure plan;

(iv) Not reduce by allowance for salvage value of equipment, solid waste, or the resale value of property or land;

(b) Prepare a new closure cost estimate in accordance with (a) of this subsection whenever:

(i) Changes in operating plans or facility design affect the closure plan; or

(ii) There is a change in the expected year of closure that affects the closure plan;

(c) Review the closure cost estimate by March 1st of each calendar year. The review shall be submitted to the jurisdictional health department, with a copy to the department, by April 1st of each calendar year stating that the review was completed and the findings of the review. The review will examine all factors, including inflation, involved in estimating the closure cost. Any cost changes shall be factored into a revised closure cost estimate and submit the revised cost estimate to the jurisdictional health department for review and approval. The jurisdictional health department shall evaluate each cost estimate for completeness, and may accept, or require a revision of the cost estimate in accordance with its evaluation.

(6) *Financial assurance requirements - Cost estimate for post-closure*. The owner or operator shall:

(a) Prepare a written post-closure cost estimate as part of the facility post-closure plan. The post-closure cost estimate shall:

(i) Be in current dollars and represent the total cost of completing post-closure activities for the facility for a twenty-year post-closure period or a time frame determined by the jurisdictional health department;

(ii) Provide a detailed written estimate, in current dollars, of the cost of hiring a third party to conduct post-closure care for the facility in compliance with the post-closure plan;

(iii) Project intervals for withdrawal of post-closure funds from the post-closure financial assurance instrument to complete the activities identified in the approved post-closure plan; and

(iv) Not reduce by allowance for salvage, value of equipment, or resale value of property or land.

(b) Prepare a new post-closure cost estimate for the remainder of the post-closure care period in accordance with (a) of this subsection, whenever a change in the post-closure plan increases or decreases the cost of post-closure care.

(c) During the operating life of the facility, the owner or operator must review the post-closure cost estimate by March 1st of each calendar year. The review will be submitted to the jurisdictional health department, with a copy to the department by April 1st of each calendar year stating that the review was completed and the finding of the review. The review shall examine all factors, including inflation, involved in estimating the post-closure cost estimate. Any changes in costs shall be factored into a revised post-closure cost estimate. The new estimate shall be submitted to the jurisdictional health department for approval. The jurisdictional health department shall evaluate each cost estimate for completeness, and may accept, or require a revision of the cost estimate in accordance with its evaluation.

(7) *Financial assurance requirements - Closure/post-closure financial assurance account establishment and reporting*.

(a) Closure and post-closure financial assurance funds generated shall be provided to the selected financial assurance instrument at the schedule specified in the closure and post-closure plans, such that adequate closure and post-clo-

sure funds will be generated to ensure full implementation of the approved closure and post-closure plans.

(b) The facility owner or operator with systematic deposits shall establish a procedure with the financial assurance instruments trustee for notification of nonpayment of funds to be sent to the jurisdictional health department and the department.

(c) The owner or operator shall file with the jurisdictional health department, no later than April 1st of each year, an annual audit of the financial assurance accounts established for closure and post-closure activities, and a statement of the percentage of user fees, as applicable, diverted to the financial assurance instruments, for the previous calendar year:

(i) For facilities owned and operated by municipal corporations, the financial assurance accounts shall be audited according to the audit schedule of the office of state auditor. A certification of audit completion and summary findings shall be filed with the jurisdictional health department and the department, including during each of the post-closure care years.

(ii) For facilities not owned or operated by municipal corporations:

(A) Annual audits shall be conducted by a certified public accountant licensed in the state of Washington. A certification of audit completion and summary findings shall be filed with the jurisdictional health department and the department, including during each of the post-closure care years.

(B) The audit shall also include, as applicable, calculations demonstrating the proportion of closure or post-closure, completed during the preceding year as specified in the closure and post-closure plans.

(d) Established financial assurance accounts shall not constitute an asset of the facility owner or operator.

(e) Any income accruing to the established financial assurance account(s) will be used at the owner's discretion upon approval of the jurisdictional health department.

(8) *Financial assurance requirements - Fund withdrawal for closure and post-closure activities*.

(a) The owner or operator will withdraw funds from the closure and/or post-closure financial assurance instrument as specified in the approved closure/post-closure plans;

(b) If the withdrawal of funds from the financial assurance instrument exceeds by more than five percent the withdrawal schedule stated in the approved closure and/or post-closure plan over the life of the permit, the closure and/or post-closure plan shall be amended.

(c) After verification by the jurisdictional health department of facility closure, excess funds remaining for closure in a financial assurance account shall be released to the facility owner or operator.

(d) After verification by the jurisdictional health department of facility post-closure, excess funds remaining for post-closure in a financial assurance account shall be released to the facility owner or operator.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 and 03-04-103 (Order 99-24 and Order 99-24A), § 173-350-600, filed 1/10/03 and 2/4/03, effective 3/7/03.]

WAC 173-350-700 Permits and local ordinances. (1) *Permit required*.

(a) No solid waste storage, treatment, processing, handling or disposal facility shall be maintained, established, substantially altered, expanded or improved until the person operating or owning such site has obtained a permit or permit deferral from the jurisdictional health department or a beneficial use exemption from the department pursuant to the provisions of this chapter. Facilities operating under categorical exemptions established by this chapter shall meet all the conditions of such exemptions or will be required to obtain a permit under this chapter. Persons dumping or depositing solid waste without a permit in violation of this chapter shall be subject to the penalty provisions of RCW 70.95.240.

(b) Permits issued under this chapter are not required for remedial actions performed by the state and/or in conjunction with the United States Environmental Protection Agency to implement the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), or remedial actions taken by others to comply with a state and/or federal cleanup order or consent decree.

(c) Any jurisdictional health department and the department may enter into an agreement providing for the exercise by the department of any power that is specified in the contract and that is granted to the jurisdictional health department under chapter 70.95 RCW, Solid waste management—Reduction and recycling. However, the jurisdictional health department shall have the approval of the legislative authority or authorities it serves before entering into any such agreement with the department.

(2) *Local ordinances*. Each jurisdictional health department shall adopt local ordinances implementing this chapter not later than one year after the effective date of this chapter, and shall file the ordinances with the department within ninety days following local adoption. Local ordinances shall not be less stringent than this chapter, but may include additional requirements.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-700, filed 1/10/03, effective 2/10/03.]

WAC 173-350-710 Permit application and issuance. (1) *Permit application process*.

(a) Any owner or operator required to obtain a permit shall apply for a permit from the jurisdictional health department. All permit application filings shall include two copies of the application. An application shall not be considered complete by the jurisdictional health department until the information required under WAC 173-350-715 has been submitted.

(b) The jurisdictional health department may establish reasonable fees for permits, permit modifications, and renewal of permits. All permit fees collected by the health department shall be deposited in the account from which the health department's operating expenses are paid.

(c) Once the jurisdictional health department determines that an application for a permit is complete, it shall:

(i) Refer one copy to the appropriate regional office of the department for review and comment;

(ii) Investigate every application to determine whether the facilities meet all applicable laws and regulations, conform to the approved comprehensive solid waste management plan and/or the approved hazardous waste management plan, and comply with all zoning requirements; and

(d) Once the department has received a complete application for review, it shall:

(i) Ensure that the proposed site or facility conforms with all applicable laws and regulations including the minimum functional standards for solid waste handling;

(ii) Ensure that the proposed site or facility conforms to the approved comprehensive solid waste management plan and/or the approved hazardous waste management plan; and

(iii) Recommend for or against the issuance of each permit by the jurisdictional health department within forty-five days of receipt of a complete application.

(e) Application procedures for statewide beneficial use exemptions and permit deferrals are contained in WAC 173-350-200 and 173-350-710(8), respectively.

(2) *Permit issuance*.

(a) When the jurisdictional health department has evaluated all pertinent information, it may issue or deny a permit. Every solid waste permit application shall be approved or disapproved within ninety days after its receipt by the jurisdictional health department. Every permit issued by a jurisdictional health department shall contain specific requirements necessary for the proper operation of the permitted site or facility.

(b) Every permit issued shall be valid for a period not to exceed five years at the discretion of the jurisdictional health department.

(c) Jurisdictional health departments shall file all issued permits with the appropriate regional office of the department no more than seven days after the date of issuance.

(d) The department shall review the permit in accordance with RCW 70.95.185 and report its findings to the jurisdictional health department in writing within thirty days of permit issuance.

(e) The jurisdictional health department is authorized to issue one permit for a location where multiple solid waste handling activities occur, provided all activities meet the applicable requirements of this chapter.

(3) *Permit renewals*.

(a) Prior to renewing a permit, the health department shall conduct a review as it deems necessary to ensure that the solid waste handling facility or facilities located on the site continue to:

(i) Meet the solid waste handling standards of the department;

(ii) Comply with applicable local regulations; and

(iii) Conform to the approved solid waste management plan and/or the approved hazardous waste management plan.

(b) A jurisdictional health department shall approve or deny a permit renewal within forty-five days of conducting its review.

(c) Every permit renewal shall be valid for a period not to exceed five years at the discretion of the jurisdictional health department.

(d) The department shall review the renewal in accordance with RCW 70.95.190 and report its findings to the jurisdictional health department in writing.

(e) The jurisdictional board of health may establish reasonable fees for permits reviewed under this section. All permit fees collected by the health department shall be deposited in the treasury and to the account from which the health department's operating expenses are paid.

(4) *Permit modifications*. Any significant change to the operation, design, capacity, performance or monitoring of a permitted facility may require a modification to the permit. The following procedures shall be followed by an owner or operator prior to making any change in facility operation, design, performance or monitoring:

(a) The facility owner or operator shall consult with the jurisdictional health department regarding the need for a permit modification;

(b) The jurisdictional health department shall determine whether the proposed modification is significant. Upon such a determination, the owner or operator shall make application for a permit modification, using the process outlined in subsections (1) through (3) of this section; and

(c) If a proposed change is determined to not be significant and not require a modification to the permit, the department shall be notified.

(5) *Inspections*.

(a) At a minimum, annual inspections of all permitted solid waste facilities shall be performed by the jurisdictional health department, unless otherwise specified in this chapter.

(b) All facilities and sites shall be physically inspected prior to issuing a permit, permit renewal or permit modification.

(c) Any duly authorized representative of the jurisdictional health department may enter and inspect any property, premises or place at any reasonable time for the purpose of determining compliance with this chapter, and relevant laws and regulations. Findings shall be noted and kept on file. A copy of the inspection report or annual summary shall be furnished to the site operator.

(6) *Permit suspension and appeals*.

(a) Any permit for a solid waste handling facility shall be subject to suspension at any time the jurisdictional health department determines that the site or the solid waste handling facility is being operated in violation of this chapter.

(b) Whenever the jurisdictional health department denies a permit or suspends a permit for a solid waste handling facility, it shall:

(i) Upon request of the applicant or holder of the permit, grant a hearing on such denial or suspension within thirty days after the request;

(ii) Provide notice of the hearing to all interested parties including the county or city having jurisdiction over the site and the department; and

(iii) Within thirty days after the hearing, notify the applicant or the holder of the permit in writing of the determination and the reasons therefore. Any party aggrieved by such determination may appeal to the pollution control hearings board by filing with the board a notice of appeal within thirty days after receipt of notice of the determination of the health officer.

(c) If the jurisdictional health department denies a permit renewal or suspends a permit for an operating waste recycling facility that receives waste from more than one city or county, and the applicant or holder of the permit requests a hearing or files an appeal under this section, the permit denial or suspension shall not be effective until the completion of the appeal process under this section, unless the jurisdictional health department declares that continued operation of the

waste recycling facility poses a very probable threat to human health and the environment.

(d) Procedures for appealing beneficial use exemption determinations are contained in WAC 173-350-200 (5)(g).

(7) *Variances*.

(a) Any person who owns or operates a solid waste handling facility subject to a solid waste permit under WAC 173-350-700, may apply to the jurisdictional health department for a variance from any section of this chapter. No variance shall be granted for requirements specific to chapter 70.95 RCW, Solid waste management—Reduction and recycling. The application shall be accompanied by such information as the jurisdictional health department may require. The jurisdictional health department may grant such variance, but only after due notice or a public hearing if requested, if it finds that:

(i) The solid waste handling practices or location do not endanger public health, safety or the environment; and

(ii) Compliance with the section from which variance is sought would produce hardship without equal or greater benefits to the public.

(b) No variance shall be granted pursuant to this section until the jurisdictional health department has considered the relative interests of the applicant, other owners of property likely to be affected by the handling practices and the general public.

(c) Any variance or renewal shall be granted within the requirements of subsections (1) through (3) of this section and for time period and conditions consistent with the reasons therefore, and within the following limitations:

(i) If the variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement, or control of pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available and subject to the taking of any substitute or alternative measures that the jurisdictional health department may prescribe;

(ii) The jurisdictional health department may grant a variance conditioned by a timetable if:

(A) Compliance with this chapter will require spreading of costs over a considerable time period; and

(B) The timetable is for a period that is needed to comply with the chapter.

(d) An application for a variance, or for the renewal thereof, submitted to the jurisdictional health department shall be approved or disapproved by the jurisdictional health department within ninety days of receipt unless the applicant and the jurisdictional health department agree to a continuance.

(e) No variance shall be granted by a jurisdictional health department except with the approval and written concurrence of the department prior to action on the variance by the jurisdictional health department.

(8) *Permit deferral*.

(a) A jurisdictional health department may, at its discretion and with the concurrence of the department, waive the requirement that a solid waste permit be issued for a facility under this chapter by deferring to other air, water or environmental permits issued for the facility which provide an equivalent or superior level of environmental protection.

(b) The requirement to obtain a solid waste permit from the jurisdictional health department shall not be waived for any transfer station, landfill, or incinerator that receives municipal solid waste destined for final disposal.

(c) Any deferral of permitting or regulation of a solid waste facility granted by the department or a jurisdictional health department prior to June 11, 1998, shall remain valid and shall not be affected by this subsection.

(d) Any person who owns or operates an applicable solid waste handling facility subject to obtaining a solid waste permit may apply to the jurisdictional health department for permit deferral. Two copies of an application for permit deferral shall be signed by the owner or operator and submitted to the jurisdictional health department. Each application for permit deferral shall include:

(i) A description of the solid waste handling units for which the facility is requesting deferral;

(ii) A list of the other environmental permits issued for the facility;

(iii) A demonstration that identifies each requirement of this chapter and a detailed description of how the other environmental permits will provide an equivalent or superior level of environmental protection;

(iv) Evidence that the facility is in conformance with the approved comprehensive solid waste management plan and/or the approved hazardous waste management plan;

(v) Evidence of compliance with chapter 197-11 WAC, SEPA rules; and

(vi) Other information that the jurisdictional health department or the department may require.

(e) The jurisdictional health department shall notify the applicant if it elects not to waive the requirement that a solid waste permit be issued for a facility under this chapter. If the jurisdictional health department elects to proceed with permit deferral, it shall:

(i) Forward one copy of the complete application to the department for review;

(ii) Notify the permit issuing authority for the other environmental permits described in (d)(ii) of this subsection and allow an opportunity for comment; and

(iii) Determine if the proposed permit deferral provides an equivalent or superior level of environmental protection.

(f) The department shall provide a written report of its findings to the jurisdictional health department and recommend for or against the permit deferral. The department shall provide its findings within forty-five days of receipt of a complete permit deferral application or inform the jurisdictional health department as to the status with a schedule for its determination.

(g) No solid waste permit deferral shall be effective unless the department has provided written concurrence. All requirements for solid waste permitting shall remain in effect until the department has provided written concurrence.

(h) When the jurisdictional health department has evaluated all information, it shall provide written notification to the applicant and the department whether or not it elects to waive the requirement that a solid waste permit be issued for a facility under this chapter by deferring to other environmental permits issued for the facility. Every complete permit deferral application shall be approved or denied within ninety days after its receipt by the jurisdictional health department

or the owner or operator shall be informed as to the status of the application with a schedule for final determination.

(i) The jurisdictional health department shall revoke any permit deferral if it or the department determines that the other environmental permits are providing a lower level of environmental protection than a solid waste permit. Jurisdictional health departments shall notify the facility's owner or operator of intent to revoke the permit deferral and direct the owner or operator to take measures necessary to protect human health and the environment and to comply with the permit requirements of this chapter.

(j) Facilities which are operating under the deferral of solid waste permitting to other environmental permits shall:

(i) Allow the jurisdictional health department, at any reasonable time, to inspect the solid waste handling units which have been granted a permit deferral;

(ii) Notify the jurisdictional health department and the department whenever changes are made to the other environmental permits identified in (d)(ii) of this subsection. This notification shall include a detailed description of how the changes will affect the facility's operation and a demonstration, as described in (d)(iii) of this subsection, that the amended permits continue to provide an equivalent or superior level of environmental protection to the deferred solid waste permits. If the amended permits no longer provide an equivalent or superior level of environmental protection, the facility owner or operator shall close the solid waste handling unit or apply for a permit from the jurisdictional health department;

(iii) Notify the jurisdictional health department and the department within seven days of discovery of any violation of, or failure to comply with, the conditions of the other environmental permits identified in (d)(ii) of this subsection;

(iv) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st as required under the appropriate annual reporting section of this chapter;

(v) Operate in accordance with any other written conditions that the jurisdictional health department deems appropriate; and

(vi) Shall take any measures deemed necessary by the jurisdictional health department when the permit deferral has been revoked.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-710, filed 1/10/03, effective 2/10/03.]

WAC 173-350-715 General permit application requirements. (1) Every permit application shall be on a format supplied by the department and shall contain the following information:

(a) Contact information for the facility owner, and the facility operator and property owner if different, including contact name, company name, mailing address, phone fax, and e-mail;

(b) Identification of the type of facility that is to be permitted;

(c) Identification of any other permit (local, state or federal) in effect at the site;

(d) A vicinity plan or map (having a minimum scale of 1:24,000) that shall show the area within one mile (1.6 km) of the property boundaries of the facility in terms of the existing and proposed zoning and land uses within that area, residences, and access roads, and other existing and proposed man-made or natural features that may impact the operation of the facility;

(e) Evidence of compliance with chapter 197-11 WAC, SEPA rules;

(f) Information as required under the appropriate facility permit application subsection of this chapter; and

(g) Any additional information as requested by the jurisdictional health department or the department.

(2) Engineering plans, reports, specifications, programs, and manuals submitted to the jurisdictional health department or the department shall be prepared and certified by an individual licensed to practice engineering in the state of Washington, in an engineering discipline appropriate for the solid waste facility type or activity.

(3) Signature and verification of applicants:

(a) All applications for permits shall be accompanied by evidence of authority to sign the application and shall be signed by the owner or operator as follows:

(i) In the case of corporations, by a duly authorized principal executive officer of at least the level of vice-president; in the case of a partnership or limited partnership, by:

(A) A general partner;

(B) Proprietor; or

(C) In case of sole proprietorship, by the proprietor;

(ii) In the case of a municipal, state, or other government entity, by a duly authorized principal executive officer or elected official.

(b) Applications shall be signed or attested to by, or on behalf of, the owner or operator, in respect to the veracity of all statements therein; or shall bear an executed statement by, or on behalf of, the owner or operator to the effect that false statements made therein are made under penalty of perjury.

(c) The signature of the applicant shall be notarized on the permit application form.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-715, filed 1/10/03, effective 2/10/03.]

WAC 173-350-900 Remedial action. When the owner or operator of a solid waste facility is subject to remedial measures in compliance with chapter 173-340 WAC, the Model Toxics Control Act, the roles of the jurisdictional health department and the department shall be as follows:

(1) The jurisdictional health department:

(a) May participate in all negotiations, meetings, and correspondence between the owner and operator and the department in implementing the model toxics control action;

(b) May comment upon and participate in all decisions made by the department in assessing, choosing, and implementing a remedial action program;

(c) Shall require the owner or operator to continue closure and post-closure activities as appropriate under this chapter, after remedial action measures are completed; and

(d) Shall continue to regulate all solid waste facilities during construction, operation, closure and post-closure, that are not directly impacted by chapter 173-340 WAC.

(2) The department shall carry out all the responsibilities assigned to it by chapter 70.105D RCW, Hazardous waste cleanup—Model Toxics Control Act.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-900, filed 1/10/03, effective 2/10/03.]

WAC 173-350-990 Criteria for inert waste. (1) *Criteria for inert waste - Applicability*. This section provides the criteria for determining if a solid waste is an inert waste. Dangerous wastes regulated under chapter 173-303 WAC, Dangerous waste regulation, PCB wastes regulated under 40 CFR Part 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions, and asbestos-containing waste regulated under federal 40 CFR Part 61 rules are not inert waste. For the purposes of determining if a solid waste meets the criteria for an inert waste a person shall:

(a) Apply knowledge of the waste in light of the materials or process used and potential chemical, physical, biological, or radiological substances that may be present; or

(b) Test the waste for those potential substances that may exceed the applicable criteria. A jurisdictional health department may require a person to test a waste to determine if it meets the applicable criteria. Such testing may be required if the jurisdictional health department has reason to believe that a waste does not meet the applicable criteria or has not been adequately characterized. Testing shall be performed in accordance with:

(i) "*Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*," U.S. EPA Publication SW-846; or

(ii) Other testing methods approved by the jurisdictional health department.

(2) *Criteria for inert waste - Listed inert wastes*. For the purpose of this chapter, the following solid wastes are inert wastes, provided that the waste has not been tainted, through exposure from chemical, physical, biological, or radiological substances, such that it presents a threat to human health or the environment greater than that inherent to the material:

(a) Cured concrete that has been used for structural and construction purposes, including embedded steel reinforcing and wood, that was produced from mixtures of Portland cement and sand, gravel or other similar materials;

(b) Asphaltic materials that have been used for structural and construction purposes (e.g., roads, dikes, paving) that were produced from mixtures of petroleum asphalt and sand, gravel or other similar materials. Waste roofing materials are not presumed to be inert;

(c) Brick and masonry that have been used for structural and construction purposes;

(d) Ceramic materials produced from fired clay or porcelain;

(e) Glass, composed primarily of sodium, calcium, silica, boric oxide, magnesium oxide, lithium oxide or aluminum oxide. Glass presumed to be inert includes, but is not limited to, window glass, glass containers, glass fiber, glasses resistant to thermal shock, and glass-ceramics. Glass containing significant concentrations of lead, mercury, or other toxic substance is not presumed to be inert; and

(f) Stainless steel and aluminum.

(3) *Criteria for inert waste - Inert waste characteristics*. This subsection provides the criteria for determining if a solid waste not listed in subsection (2) of this section is an inert waste. Solid wastes meeting the criteria below shall have comparable physical characteristics and comparable or lower level of risk to human health and the environment as those listed in subsection (2) of this section.

(a) Inert waste shall have physical characteristics that meet the following criteria. Inert waste shall:

(i) Not be capable of catching fire and burning from contact with flames;

(ii) Maintain its physical and chemical structure under expected conditions of storage or disposal including resistance to biological and chemical degradation; and

(iii) Have sufficient structural integrity and strength to prevent settling and unstable situations under expected conditions of storage or disposal.

(b) Inert waste shall not contain chemical, physical, biological, or radiological substances at concentrations that exceed the following criteria. Inert waste shall not:

(i) Be capable of producing leachate or emissions that have the potential to negatively impact soil, ground water, surface water, or air quality;

(ii) Pose a health threat to humans or other living organisms through direct or indirect exposure; or

(iii) Result in applicable air quality standards to be exceeded, or pose a threat to human health or the environment under potential conditions during handling, storage, or disposal.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-990, filed 1/10/03, effective 2/10/03.]

Chapter 173-434 WAC
SOLID WASTE INCINERATOR FACILITIES

WAC

173-434-020	Applicability and compliance.
173-434-030	Definitions.
173-434-050	Repealed.
173-434-070	Repealed.
173-434-100	Repealed.
173-434-110	Standards of performance.
173-434-120	Repealed.
173-434-130	Emission standards.
173-434-160	Design and operation.
173-434-170	Monitoring and reporting.
173-434-190	Changes in operation.
173-434-200	Emission inventory.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-434-050	New source review (NSR). [Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-434-050, filed 9/17/90, effective 10/18/90. Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-434-050, filed 1/3/89. Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-050, filed 3/16/87.] Repealed by 04-01-159 (Order 02-05), filed 12/22/03, effective 1/22/04. Statutory Authority: RCW 70.94.331 and 70.94.510.
173-434-070	Prevention of significant deterioration (PSD). [Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-434-070, filed 9/17/90, effective 10/18/90.] Repealed by 04-01-159 (Order 02-05), filed 12/22/03, effective 1/22/04. Statutory Authority: RCW 70.94.331 and 70.94.510.
173-434-100	Requirement for BACT. [Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-434-100, filed 9/17/90, effective 10/18/90. Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-100, filed 3/16/87.] Repealed by 04-01-159 (Order 02-05), filed 12/22/03, effective 1/22/04. Statutory Authority: RCW 70.94.331 and 70.94.510.
173-434-120	Emission standards for hazardous air pollutants. [Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-

10), § 173-434-120, filed 9/17/90, effective 10/18/90. Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-120, filed 3/16/87.] Repealed by 04-01-159 (Order 02-05), filed 12/22/03, effective 1/22/04. Statutory Authority: RCW 70.94.331 and 70.94.510.

WAC 173-434-020 Applicability and compliance. (1) The provisions of this chapter shall apply statewide to all incinerator facilities that:

(a) Are constructed after January 1, 1985, which are designed to burn twelve or more tons per day of solid waste; or

(b) Were constructed prior to January 1, 1985, but begin to burn twelve or more tons per day of solid waste after January 1, 1985.

(2) This chapter subjects solid waste incinerator facilities to either a primary compliance scheme or an alternate compliance scheme. The requirements for the primary compliance scheme are contained in WAC 173-434-090, 173-434-130, 173-434-160, 173-434-170, 173-434-190, 173-434-200, and 173-434-210. The requirements for the alternate compliance scheme are contained in WAC 173-434-110. The alternate compliance scheme applies to solid waste incinerator facilities that meet the criteria specified in WAC 173-434-110 and to solid waste incinerator facilities that opt in to the alternate compliance scheme pursuant to WAC 173-434-110 (3)(b). The primary compliance scheme applies to all other solid waste incinerator facilities.

[Statutory Authority: RCW 70.94.331 and 70.94.510. 04-01-159 (Order 02-05), § 173-434-020, filed 12/22/03, effective 1/22/04. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-434-020, filed 9/17/90, effective 10/18/90. Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-020, filed 3/16/87.]

WAC 173-434-030 Definitions. The definitions of terms contained in chapter 173-400 WAC are incorporated by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter, shall have the following meanings.

(1) "Incinerator facility" means all of the emissions unit(s), including quantifiable fugitive emissions, which are located in one or more contiguous or adjacent properties, and are under the control of the same person(s), whose activities are principal or ancillary to the incineration of solid waste. Ancillary activities include, but are not limited to, solid waste receiving, segregating and processing, solid waste derived fuel receiving and handling, fuel storage and mixing, heat recovery equipment, steam generating equipment, cooling towers, emissions control equipment, ash handling, ash storage, and combustion.

(2) "Residence time" means the minimum amount of time that a parcel of gas is subject to a given temperature.

(3) "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, discarded commodities, septage from septic tanks, dangerous waste, refuse derived fuel, solid waste derived fuel, problem wastes, and all materials which are not primary products of public, private, industrial, commercial, mining, and agricultural operations. This definition includes, but is not limited to, all materials that fit the definitions of municipal solid waste in 40 CFR 60, subparts Cb, Ea, Eb, AAAA, or BBBB, as well as all materials that fit the definitions of commercial and industrial solid waste in 40 CFR 60, subparts CCCC or DDDD, in effect on July 1, 2003. Notwithstanding the above, solid waste does not include:

(a) Creosote treated wood at facilities with an order of approval or Prevention of Significant Deterioration (PSD) permit issued on or after December 1, 2003, for burning such wood, provided that such wood has not been in or repeatedly splashed by marine or brackish water;

(b) At a Portland cement plant kiln;

(i) Tires; and

(ii) Waste oil that is nonhazardous as defined by WAC 173-303-515, Standards for the management of used oil;

(c) Wood waste; or

(d) Sludge from waste water treatment plants.

(4) "Transmissometer" means a device that measures opacity and conforms to EPA Performance Specification Number 1 in Title 40 Code of Federal Regulations, Part 60, Appendix B in effect on July 1, 2003.

[Statutory Authority: RCW 70.94.331 and 70.94.510. 04-01-159 (Order 02-05), § 173-434-030, filed 12/22/03, effective 1/22/04. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-434-030, filed 9/17/90, effective 10/18/90. Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-030, filed 3/16/87.]

WAC 173-434-050 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-434-070 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-434-100 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-434-110 Standards of performance. (1) Notwithstanding WAC 173-400-115, the following sections of 40 CFR part 60, subpart Eb, in effect on July 1, 2003, are hereby incorporated by reference with the exceptions in subsection 110(2):

(a) 40 CFR part 60, subpart Eb, subsections 60.52b (a)(3), (a)(5), (b)(2), (c)(1), and (c)(2);

(b) All the rest of 40 CFR part 60, subpart Eb.

(2) Exceptions.

(a) The 250 tons per day figures throughout 40 CFR part 60, subpart Eb shall be 12 tons per day;

(b) The terms "municipal solid waste," "municipal type solid waste," and "MSW" in subpart Eb shall include all materials that fit the definition of solid waste in this chapter;

(c) 40 CFR part 60, subpart Eb, subsection 60.50b(j) shall not be incorporated by reference with respect to facilities constructed, reconstructed or modified after December 1, 2003;

(d) The November 20, 1997, dates in subsection 60.52b(c) are changed to November 20, 2005.

(3) Except for WAC 173-434-130 (4)(c), the following sections, WAC 173-434-090, 173-434-130, 173-434-160, 173-434-170, 173-434-190 and 173-434-200 shall not apply to:

(a) An incinerator facility regulated under this section; and

(b) An incinerator facility that elects to become subject to this section in an order of approval or other regulatory order from the permitting agency.

(4) The effective date of this section shall be May 1, 2004.

[Statutory Authority: RCW 70.94.331 and 70.94.510. 04-01-159 (Order 02-05), § 173-434-110, filed 12/22/03, effective 1/22/04. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-434-110, filed 9/17/90, effective 10/18/90. Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-110, filed 3/16/87.]

WAC 173-434-120 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-434-130 Emission standards. In addition to the general applicability of chapters 173-400 and 173-490 WAC to all emission sources; no incinerator facility shall cause or permit air contaminant emissions in excess of the limits listed below. Specific emission standards listed in this chapter will take precedence over the general emission standards of chapter 173-400 WAC.

(1) Particulate.

(a) For incinerator facilities that are capable of burning two hundred fifty or more tons of solid waste per day, emissions from each stack shall not exceed 0.046 grams of particulate per dry cubic meter at standards conditions (0.020 grains/dscf) corrected to seven percent oxygen for an hourly average.

(b) For incinerator facilities that have a maximum capability of burning less than two hundred fifty tons of solid waste per day, emissions from each stack shall not exceed 0.069 grams of particulate per dry cubic meter at standards conditions (0.030 grains/dscf) corrected to seven percent oxygen for an hourly average.

(2) Hydrogen chloride. The hydrogen chloride emissions from each stack shall not exceed fifty ppm on a volumetric dry basis corrected to seven percent oxygen for an hourly average, except if the owner or operator demonstrates that uncontrolled emissions of hydrogen chloride are reduced by at least eighty percent and a procedure acceptable to ecology or the authority for monitoring is developed.

(3) Sulfur dioxide. The sulfur dioxide emissions from each stack shall not exceed fifty ppm on a volumetric dry basis corrected to seven percent oxygen for an hourly average, except if the owner or operator demonstrates that the uncontrolled emissions of sulfur dioxide are reduced by at least eighty percent and a procedure acceptable to ecology or the authority for monitoring is developed.

(4) Opacity.

(a) The opacity as measured visually from any incinerator stack shall not exceed an average of five percent opacity for more than six consecutive minutes in any sixty minute period.

(b) The opacity as measured by a transmissometer shall not exceed an average of ten percent opacity for more than six consecutive minutes in any sixty minute period.

(c) The opacity as measured visually shall not exceed an average of zero percent from any emissions unit except incinerator stacks for more than six consecutive minutes in any sixty minute period.

(5) Fugitive emissions. Each operator or owner shall take reasonable precautions to prevent fugitive emissions which includes the paving of all normally traveled roadways within the plant boundary and enclosing or hooding material transfer points.

(6) Source testing. To demonstrate compliance with this chapter, refer to WAC 173-400-105.

[Statutory Authority: RCW 70.94.331 and 70.94.510. 04-01-159 (Order 02-05), § 173-434-130, filed 12/22/03, effective 1/22/04. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-434-130, filed 9/17/90, effective 10/18/90. Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-130, filed 3/16/87.]

WAC 173-434-160 Design and operation. (1) Combustion.

(a) Combustion zone temperature. Whenever solid waste is being burned, the temperature of the final combustion zone shall not be below 982°C (1800°F) for a fifteen minute average nor below 871°C (1600°F) for any reading.

(b) Combustion zone residence time. The minimum combustion chamber temperature must be maintained for at least one second (1.0 second) in a zone after the last over fire air has entered the combustion chamber. If over fire air is not used, the combustion chamber shall maintain the minimum combustion temperature or greater for at least one second with all combustion gases. Procedures for determining the residence time shall be a part of the new source review.

(c) Excess air. The combustion gases leaving the final combustion zone must contain at least three percent oxygen measured on a wet basis.

(d) Combustion air distribution and control. The air distribution shall be fully controllable where pressurized air is introduced and the air flow shall be monitored and recorded.

(2) Combustion air. To minimize odor, fugitive emissions and to maintain a negative pressure in the tipping area, the combustion air shall be withdrawn from the tipping area, or shall utilize an equivalent means of odor and fugitive emission control acceptable to ecology or the authority.

(3) Particulate control device temperature. The inlet temperature of the primary particulate control device shall not exceed 177°C (350°F).

(4) Operation. At all times, the owner or operator shall, to the extent practicable, maintain and operate any incinerator facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice. This may mean that if the emissions limits are being exceeded, no more waste should be fed into the incinerator until the problem is corrected. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to ecology or the authority which may include, but is not limited to, monitoring and recording results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

[Statutory Authority: RCW 70.94.331 and 70.94.510. 04-01-159 (Order 02-05), § 173-434-160, filed 12/22/03, effective 1/22/04. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-434-160, filed 9/17/90, effective 10/18/90. Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-160, filed 3/16/87.]

WAC 173-434-170 Monitoring and reporting. The owners or operators of each incinerator facility shall conduct routine monitoring of emissions in accordance with a program that has been approved by ecology or the authority. The program must contain quality control and quality assurance procedures.

(1) Monitoring.

(a) The owners or operators shall install, operate, and maintain continuous monitors and recorders for the following:

(i) Opacity;

(ii) Combustion zone temperature;

(iii) Particulate control device temperature;

(iv) Hydrogen chloride and/or sulfur dioxide;

(v) Oxygen;

(vi) Carbon monoxide;

(vii) Combustion air distribution.

(b) The monitors for sulfur dioxide, carbon monoxide, and oxygen shall comply with EPA performance specifications and quality assurance and control criteria in Title 40, Code of Federal Regulations, Part 60, Appendix B and Appendix F respectively, in effect on July 1, 2003.

(c) The monitor for opacity shall comply with EPA performance specifications and quality assurance and control criteria in Title 40, Code of Federal Regulations, Part 60, Appendix B in effect on July 1, 2003, and EPA-340/1-86-010, Recommended Quality Assurance Procedure for Opacity Continuous Emission Monitoring Systems.

(2) Reporting. Results of the monitoring shall be reported within fifteen days of the end of each calendar month and shall include but may not be limited to data such as:

(a) The average daily maximum and the daily maximum concentration of each monitored pollutant and the daily amount of solid waste burned.

(b) The date, time, and magnitude of any periods during which the standards were exceeded, and what corrective action was or will be taken.

(c) Any period(s) of monitor down time.

(3) Testing. The owners or operators shall conduct emission tests for particulate, sulfur dioxide and hydrogen chloride on a regular basis. These tests may be used to determine acceptable operating parameters. Testing shall be at least annually for incinerator facilities capable of burning two hundred fifty tons or more of solid waste per day and biennially for other facilities.

(4) Other data. Each owner or operator shall furnish upon request by ecology or the authority, other data required to evaluate the incinerator's emissions or emissions control program.

[Statutory Authority: RCW 70.94.331 and 70.94.510. 04-01-159 (Order 02-05), § 173-434-170, filed 12/22/03, effective 1/22/04. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-434-170, filed 9/17/90, effective 10/18/90. Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-170, filed 3/16/87.]

WAC 173-434-190 Changes in operation. (1) If a startup, shutdown, breakdown, or upset condition occurs which could result in an emissions violation or a violation of an ambient air quality standard, the owner or operator of the source shall take the following actions as applicable:

(a) For a planned condition, such as a startup or shutdown, the condition shall be reported to ecology or the authority not less than twenty-four hours in advance of its occurrence. For incinerator facilities that normally operate for less than twenty-four hours per day, this provision may be waived provided that daily startup and shutdown procedures are developed that are acceptable to ecology or the authority.

(b) For unplanned conditions, such as a breakdown or upset, the condition shall be reported to ecology or the authority as soon as possible, but no later than the end of the next business day.

(2) If, upon reviewing the available information, ecology or the authority determines that continued operation of any emissions unit is likely to cause a significant risk to the public, it may order an immediate shutdown of the emissions unit.

(3) Upon request ecology or the authority, the owner or operator of the source shall submit a full written report including known causes of any infraction, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

(4) Compliance with the requirement of WAC 173-434-100 does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of chapter 173-434 WAC nor from the resulting liabilities for failure to comply.

[Statutory Authority: RCW 70.94.331 and 70.94.510. 04-01-159 (Order 02-05), § 173-434-190, filed 12/22/03, effective 1/22/04. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-434-190, filed 9/17/90, effective 10/18/90. Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-190, filed 3/16/87.]

WAC 173-434-200 Emission inventory. The owner or operator of any solid waste incinerator shall submit an inventory of emissions that complies with WAC 173-400-105. The inventory shall include but may not be limited to stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, nitrogen oxides, carbon monoxide, volatile organic compounds, hydrogen chloride, and other contaminants as requested by ecology or the authority or as required by federal emissions reporting requirements.

[Statutory Authority: RCW 70.94.331 and 70.94.510. 04-01-159 (Order 02-05), § 173-434-200, filed 12/22/03, effective 1/22/04. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-434-200, filed 9/17/90, effective 10/18/90. Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-434-200, filed 1/3/89. Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-200, filed 3/16/87.]